NORTH DAKOTA ADMINISTRATIVE CODE

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Prepared by the Legislative Council staff
for the
Administrative Rules Committee

TABLE OF CONTENTS

Addiction Counseling Examiners, Board of.....1
Psychologist Examiners, Board of.....23
Public Service Commission.....39
Retirement Board.....49
Seed Commission.....69
Private Investigative and Security Board.....97
Board of Counselor Examiners.....105
State Gaming Commission.....115
Respiratory Care, North Dakota State Board of.....259
Peace Officer Standards and Training Board.....269

TITLE 4.5

ADDICTION COUNSELING EXAMINERS, BOARD OF

JULY 2018

CHAPTER 4.5-01-01

4.5-01-01-01. Organization of board of addiction counseling examiners.

1. **History.** The 1987 legislative assembly passed legislation establishing the state board of addiction counseling examiners, codified as North Dakota Century Code chapter 43-45. The board of addiction counseling examiners license addiction counselors.

2. **Board membership.** The board consists of seven members appointed by the governor. Four members are licensed practicing addiction counselors, two members are laypersons, and one member is a licensed addiction counselor in private practice. The governor shall appoint board members for three-year terms, but no person may be appointed to serve for more than two consecutive terms.

3. **Board officers.** The board annually elects from its membership a chairperson, a vice chairperson, and a treasurer at the fourth quarter meeting. The board may hire a secretary at its discretion.

4. **Inquiries.** Inquiries regarding the board may be addressed to:

   Board of Addiction Counseling Examiners
   ~~P.O. Box 975~~402 East Main Avenue, Suite 5
   Bismarck, ND ~~58502~~58501

History: Effective August 1, 1988; amended effective August 1, 1991; April 1, 1994; November 1, 1994; January 1, 2002; January 1, 2008; July 1, 2018.
General Authority: NDCC 28-32-02, 43-45-04
Law Implemented: NDCC 28-32-02, 43-45-02, 43-45-03, 43-45-04

CHAPTER 4.5-02.1-01
INITIAL LICENSURE AND FEES

Section
4.5-02.1-01-01 Definitions [Repealed]
4.5-02.1-01-02 Licensure and Registration Application
4.5-02.1-01-03 Academic Requirements
4.5-02.1-01-04 Clinical Training Requirements
4.5-02.1-01-05 Examination
4.5-02.1-01-06 Reciprocity [Repealed]
4.5-02.1-01-06.1 Reciprocity and Licensing Equivalency
4.5-02.1-01-07 Fees

4.5-02.1-01-02. Licensure and registration application.

1. An application for a license to practice addiction counseling must be made to the state board of addiction counseling examiners on forms approved by the board. Each application for license must be accompanied by all of the following:

~~1.~~ a. A completed application, signed by the applicant.

b. The required fee.

~~2. An~~

c. All official ~~transcript~~undergraduate and graduate transcripts verifying academic requirements and any degree or degrees earned.

~~3.An official document verifying~~

d. Proof of successful completion of clinical training ~~completion.~~

~~4.Documentation verifying a passing score on board-approved examinations~~.

e. Proof of successful completion of the appropriate examination submitted to the board office by the entity that administered the examination.

2. An individual who is a licensed addiction counselor may apply for licensure as a licensed clinical addiction counselor on or before January 1, 2024, by:

a. Submitting a completed application form approved by the board.

b. Demonstrating that on June 30, 2018, the applicant met all academic requirements for licensure as an addiction counselor set forth in North Dakota Administrative Code chapter 11.

c. Paying the required application fee.

3. An individual who is a licensed addiction counselor may apply for licensure as a licensed master addiction counselor on or before January 1, 2024, by:

a. Submitting a completed application form approved by the board.

b. Demonstrating that on June 30, 2018, the applicant possessed either a master's degree or doctorate degree that met the academic requirements for licensure as an addiction counselor set forth in North Dakota Administrative Code chapter 11.

c. Paying the required application fee.

4. An application for registration of an individual as a clinical trainee must be submitted to the board by the applicant's training consortium director, university program director, or agency program director, using forms approved by the board, prior to the registrant's accumulation of any clinical training hours. Each application for registration must be accompanied by documentation indicating that the applicant:

   a. Meets the academic requirements for registration as a clinical trainee.

   b. Has been accepted into a training consortium or other training program approved by the board.

   c. Has been assigned a trainee's training plan, which must:

      (1) Identify the board-registered clinical supervisor responsible for overseeing the trainee's clinical training.

      (2) Include a copy of the trainee's college or university transcripts.

      (3) Include a transcript review on a form approved by the board.

   An applicant may remain in clinical trainee status for up to twelve months. An applicant's clinical training supervisor may request that the board grant up to a twelve month extension of the applicant's clinical trainee status. During the time an individual is registered as a clinical trainee, the individual is expected to achieve the academic, clinical training, and examination requirements necessary for licensure.

5. An application for registration as an intern must be made to the board on forms approved by the board. Each application for registration must be accompanied by documentation indicating that the applicant either:

   a. Possesses an addiction counseling license or certification in good standing from another jurisdiction; is accepted into an academic program offering a bachelor's, master's, or doctorate degree in addiction counseling or a closely related mental health field; and is no more than nine semester credit hours short of obtaining the degree;

   b. Possesses an addiction counseling license or certification in good standing from another jurisdiction, meets the academic requirements for licensure, but has not earned all clinical training hours required for licensure; or

   c. Has completed all academic coursework and clinical training hours required for licensure, but has not taken the required examination.

   An applicant may remain in intern status for up to twelve months. The board may grant up to a twelve month extension to internship status. Request for an extension of the internship period with documentation of need by clinical supervisor is the responsibility of the intern.

History: Effective January 1, 2002; amended effective July 1, 2018.
General Authority: NDCC 43-45-04
Law Implemented: NDCC 43-45-04, 43-45-05.1

4.5-02.1-01-03. Academic requirements.

~~Academic~~All academic requirements related to the registration of clinical trainees and interns, and the licensing of addiction counselors must be completed at a college or university accredited by one of six regional institutional accreditors in the United States.

An applicant for licensure shall have at least one of the following:

1. Trainee. An individual meets the academic requirements for registration as a trainee if the individual:

a. Has been accepted into or completed an academic program that meets the academic requirements for licensure as an addiction counselor or a master addiction counselor.

b. Is no more than six credits short of meeting all academic requirements for licensure as either an addiction counselor or a master addiction counselor.

2. Licensed addiction counselor and licensed clinical addiction counselor. An individual meets the academic requirements for licensure as an addiction counselor or as a licensed clinical addiction counselor, if the individual possesses:

a. A bachelor's, master's, or doctorate degree in addiction studies from a program accredited by the national addiction studies accreditation committee, the international coalition for addiction studies and education accreditation, or counsel for accreditation of counseling and related educational programs for addiction counseling; or

~~2.~~ b. A bachelor's, master's, or doctorate degree in addiction studies or a closely related ~~social science or~~mental health care field ~~and a minimum of thirty-two total credit-hours in addiction studies is required. The thirty-two credit-hours must include academic course content in all of the following areas:~~

~~a. A~~, including a minimum of ~~three~~twenty-seven undergraduate credits ~~covering theory and techniques of treatment with all of~~meeting the following content and credit requirements:

(1) ~~Evidence-based treatment methods and models, including those specific to addiction.~~

~~(2) Assessment and diagnosis models based upon the current diagnostic and statistical manual of the American psychiatric association, including substance-related disorders.~~

~~(3) Most current American society of addiction medicine patient criteria.~~

~~(4) Interviewing process, skills, and techniques.~~

~~(5) Individual counseling skills.~~

~~(6) Testing instruments.~~

~~(7) Documentation, report writing, and recordkeeping.~~

~~(8) Verbal communication skills.~~

~~b. A minimum of three credits covering group counseling skills.~~

~~c. A minimum of three credits covering psychopharmacology.~~

~~d. A minimum of three credits covering dynamics of addition with all the following content:~~

~~(1) Historical perspective of models of addiction.~~

~~(2) Community support and self-help for people with substance disorders.~~

~~(3) Contagious diseases related to substance abuse.~~

~~e. A minimum of three credits covering co-occurring disorders with all the following content:~~

~~(1) Assessment and diagnosis models of substance-related disorders and co-occurring mental illnesses based upon the current diagnostic and statistical manual of the American psychiatric association.~~

~~(2) Psychopathlogy, mental health, and mental illness in childhood, adolescence, and adulthood.~~

~~f. A minimum of two credits covering professional ethics with all the following content:~~

~~(1) Professional competence and standards.~~

~~(2) Values and societal obligations.~~

~~(3) Ethics and codes of conduct for professionals.~~

~~(4) Ethical decisionmaking.~~

~~(5) Malpractice and liability.~~

~~(6) Federal and state regulations governing addiction counseling.~~

~~g. A minimum of three credits covering development through the entire lifespan.~~

~~h. A minimum of three credits covering family systems with all the following content:~~

~~(1) Family functioning.~~

~~(2) Family types.~~

~~(3) Addiction in families.~~

~~i.~~ A minimum of three credits ~~covering multicultural diversity or cultural competence related to counseling~~in theories and techniques of counseling that must include content in theories specific to addiction counseling, counseling techniques specific to addiction counseling, and American society of addiction medicine criteria.

(2) A minimum of three credits in group counseling.

(3) A minimum of three credits in psychopharmacology that must include an overview of drugs of abuse.

(4) A minimum of three credits in dynamics of addiction or introduction to addiction studies that must include content in the history of addiction counseling and addiction treatment methods.

(5) A minimum of three credits in professional ethics that must include content specific to addiction counseling, the national association for alcoholism and drug abuse counselors code of ethics, and 42 CFR part 2.

(6) A minimum of three credits in family systems that must include content specific to family systems theories.

(7) A minimum of three credits in lifespan development.

(8) A minimum of three credits in multicultural diversity.

(9) A minimum of three credits in co-occurring disorders that must include content in the assessment and diagnosis of substance abuse disorders and an overview of a broad range of mental health disorders.

3. Licensed master addiction counselor. An individual meets the academic requirements for licensure as a master addiction counselor if the individual possesses:

a. A master's or doctorate degree in addiction studies from a program accredited by the national addiction studies accreditation committee, the international coalition for addiction studies and education accreditation, or counsel for accreditation of counseling and related educational programs for addiction counseling; or

b. A master's or doctorate degree in addiction counseling or a closely related mental health care field, including a minimum of thirty-one graduate-level credits meeting the following content and credit requirements:

(1) A minimum of three credits in theories of counseling that must include content specific to theories of addiction counseling.

(2) A minimum of three credits in counseling techniques, assessment, and treatment of addiction disorders that must include content on the American society of addiction medicine criteria and counseling techniques specific to addiction.

(3) A minimum of three credits in group counseling.

(4) A minimum of three credits in psychopharmacology that must include content in all of the following areas: drugs of abuse, medication-assisted treatment for addictive disorders, and medications used to treat mental health disorders.

(5) A minimum of three credits in research methods or program evaluation.

(6) A minimum of three credits in professional ethics that must include content specific to addiction counseling, the national association for alcoholism and drug abuse counselors code of ethics, and 42 CFR part 2.

(7) A minimum of three credits in family counseling that must include content specific to methods and techniques for working with families of addicted individuals.

(8) A minimum of three credits in lifespan development.

(9) A minimum of three credits in multicultural counseling that must include content specific to counseling individuals of diverse backgrounds.

(10) A minimum of three credits in treatment of co-occurring disorders that must include content in the assessment diagnosis and treatment of substance abuse disorders and other mental health disorders.

(11) A minimum of one credit in clinical supervision.

4. Licensees of other North Dakota mental health boards.

a. Individuals licensed in North Dakota as psychologists, psychiatrists, or physicians who possess a master's or doctorate degree in their field of licensure meet the academic requirements for licensure as a master in addiction counseling.

b. Individuals licensed in North Dakota as marriage and family therapists, licensed professional clinical counselors, licensed independent clinical social workers, or advanced clinical practice nurses that possess a master's or doctorate degree in their field of licensure meet the academic requirements for licensure as an addiction counselor or a master addiction counselor if that individual also meets the academic standards set forth by this board for licensure as a licensed addiction counselor or a licensed master addiction counselor.

c. As set forth in North Dakota Century Code section 43-45-06, this rule may not be construed as preventing an individual from doing work within the standards and ethics of that individual's profession or within the scope of a license issued in this state.

History: Effective January 1, 2002; amended effective January 1, 2008; July 1, 2014; July 1, 2018.
General Authority: NDCC 43-45-04
Law Implemented: NDCC 43-45-04, 43-45-05.1

4.5-02.1-01-04. Clinical training requirements.

~~The completion of one thousand four hundred hours in a clinical training program approved by the board is required for licensure. The trainee's registration and successful completion of the clinical training program must be verified in writing with the board by the clinical training program director.~~

~~1. Qualifications. To be eligible for registration as a clinical trainee, the following must be met:~~

~~a. All core academic coursework must be completed, with the exception that two required curriculum addiction courses may be completed while registered as a clinical trainee.~~

~~b. Acceptance in a board-approved addiction counseling clinical training program or a board-approved individualized clinical training plan supervised by a board-approved clinical training program.~~

~~2. Registration. Clinical training program directors requesting to register their clinical trainees shall make formal application to the board documenting their clinical trainees above qualifications.~~

~~3. Expiration. An individual's clinical trainee registration expires after two years. The clinical training period may be extended due to clinical supervisors' recommendations, individual circumstance, health circumstances, or other personal matters. Extension of the clinical portion of training is the responsibility of the clinical training program director.~~

~~4. Applicants who complete clinical training not approved by the board must demonstrate that the clinical training completed was substantially equivalent to that required by North Dakota Century Code chapter 43-45 and article 4.5-02.1.~~

~~5. One year of direct clinical counseling experience as a licensed mental health professional or addiction counselor is equivalent to one hundred fifty hours of clinical training. If the applicant is a licensed mental health professional other than an addiction counselor, a maximum of nine hundred hours of clinical training can be accepted for applicants with direct clinical counseling experience. The remaining five hundred hours of clinical training must include training in American society of addiction medicine patient criteria, current diagnostic and statistical manual, and the counselor domains. The hours in each area will be determined by the clinical training program where the trainee is registered. For the purposes of this subsection, mental health professional is defined as in North Dakota Century Code section 25-03.1-02.~~

1. All clinical training hours must involve the clinical application of addiction counseling and be completed at a training consortium, one or more sites approved by the board, through a university placement or through an individualized training program approved by the board. Clinical training hours must be supervised by a registered clinical supervisor who is either a licensed clinical addiction counselor or a licensed master addiction counselor. Licensed addiction counselors who are registered clinical supervisors may supervise clinical training hours through December 31, 2023.

2. During clinical training a supervisee may not work independently with clients and the supervisor shall provide direct observation of all addiction-specific work performed by the supervisee with clients, until the supervisee obtains a score of three or higher in that particular

clinical training area as documented by the supervisor on a supervisee monthly progress report. After being rated three or higher in a clinical training area, a supervisor shall provide appropriate indirect supervision to the supervisee on that clinical training area. The clinical supervisor shall sign all supervisee monthly progress reports.

3. Clinical training areas include:

a. Screening and American society of addiction medicine assessment;

b. Treatment planning;

c. Referral;

d. Service coordination and documentation;

e. Counseling;

f. Client, family, and community education;

g. Documentation; and

h. Professional and ethical responsibilities.

4. The training program director or clinical supervisor shall maintain monthly supervisee progress reports and retain them for at least twenty-four months. The board may carry out audits of monthly supervisee progress reports as it deems appropriate.

5. The training consortium's training program director or the clinical supervisor shall submit to the board completion forms and final performance reviews for each supervisee. The final performance review must demonstrate scores of three or higher in each of the clinical training areas.

6. Clinical training requirements also include a minimum of the following:

a. Licensed addiction counselor. Nine hundred sixty clinical training hours earned at two or more training sites at a training consortium. Completion forms or final performance reviews must include documentation of the provision of at least:

(1) Forty hours of direct, face-to-face supervision in each of the following clinical training areas: screening and American society of addiction medicine assessment; treatment planning; counseling; and client, family, and community education.

(2) Thirty hours in the clinical training area of documentation, which must include the supervisor reviewing and discussing clinical notes with the supervisee.

b. Licensed master addiction counselor.

(1) Seven hundred clinical training hours earned at one or more training sites. Completion forms or final performance reviews must include documentation of the provision of at least:

(a) Thirty hours of direct, face-to-face supervision in each of the following clinical training areas: screening and American society of addiction medicine assessment; treatment planning; counseling; and client, family, and community education.

(b) Twenty hours in the clinical training area of documentation, which must include the supervisor reviewing and discussing clinical notes with the supervisee.

An individual who meets this clinical hours requirement, the academic requirements for a licensed master addiction counselor, and the examination requirements for either a licensed addiction counselor or a licensed master addiction counselor, upon submission of a completed application to the board, may be granted licensure as an addiction counselor.

(2) Two thousand postclinical training hours earned after the individual has been awarded an appropriate master's or doctorate degree. A minimum of fifty percent of the supervised practice hours must be supervised by a registered clinical supervisor who is either a licensed clinical addiction counselor or a licensed master addiction counselor. Licensed addiction counselors who are registered clinical supervisors may supervise the clinical training hours through December 31, 2023. No more than fifty percent of the clinical training hours may be supervised by other professionals that the supervising addiction counselor deems competent in the area of practice being supervised, and who are either registered as a clinical supervisor by the board that licenses the other professional or determined by the board to be competent to serve as the supervisor. Supervision of the clinical training hours must consist of a minimum of one hour weekly, face-to-face supervision and may be provided by an offsite supervisor.

c. Clinical trainee and intern.

(1) Clinical trainee. Individuals accepted into a training consortium, one or more sites approved by the board, or through a university placement approved by the board meet the clinical training requirements for registration by the board as clinical trainees.

(2) Intern.

(a) The supervision of an intern may be direct or indirect. At least one hour of supervision must be direct, in-person supervision. At least fifty percent of the clinical training hours for an intern must be supervised by either a licensed clinical addiction counselor or a licensed master addiction counselor. Licensed addiction counselors who are registered clinical supervisors may supervise the clinical training hours through December 31, 2023. No more than fifty percent of the clinical training hours for an intern may be accumulated under other professionals who are designated by the registered clinical supervisor, approved by the board, and competent in the area of practice being supervised. The other professional must be registered as a clinical supervisor by the board that licenses that other supervisor.

(b) If, previous to having been registered as an intern, an individual completed clinical training hours at any location other than a board-approved location, then all clinical training hours earned after registration as an intern must be under direct supervision until the intern scores three or higher in a clinical training area as documented on the intern's monthly progress report. After being rated as a three or higher in a particular clinical training area, the intern can receive indirect supervision while performing tasks within that clinical training area. The intern's clinical supervisor is required to submit the intern's completion form and the final performance review to the board.

d. Licensees of other North Dakota mental health boards.

(1) Individuals licensed in North Dakota as psychologists, psychiatrists, physicians, marriage and family therapists, professional clinical counselors, licensed independent clinical social workers, or advanced clinical practice nurses who

possess a master's or doctorate degree in their field of licensure meet the clinical training requirements for licensure as a licensed addiction counselor or a licensed master in addiction counseling by completing three hundred fifty supervised addiction-specific clinical training hours.

(2) The three hundred fifty hours may be supervised only by licensed clinical addiction counselors or licensed master addiction counselors. As set forth in North Dakota Century Code section 43-45-06, this rule may not be construed as preventing an individual from doing work within the standards and ethics of that individual's profession or within the scope of a license issued in this state.

History: Effective January 1, 2002; amended effective April 1, 2009; July 1, 2014; July 1, 2018.
General Authority: NDCC 43-45-04
Law Implemented: NDCC 43-45-01, 43-45-04, 43-45-05.1

4.5-02.1-01-05. Examination.

~~The~~An applicant must pass the appropriate written examination as approved by the board. ~~The~~A written examination may be taken ~~when offered anytime~~only after the completion of the required academic coursework.

1. Licensed addiction counselor. The national certified addiction counselor level II examination or the master addiction counselor examination administered by the national association for alcoholism and drug abuse counselors.

2. Licensed master addiction counselor. The master addiction counselor examination administered by the national association for alcoholism and drug abuse counselors.

3. Exemption. Individuals licensed in North Dakota as psychologists, psychiatrists, or physicians who possess a doctorate degree in their field of licensure are not required to complete an examination to be eligible for licensure as a licensed addition counselor or a licensed master addiction counselor.

History: Effective January 1, 2002; amended effective April 1, 2009; July 1, 2014; July 1, 2018.
General Authority: NDCC 43-45-04
Law Implemented: NDCC 43-45-04, 43-45-05.1

4.5-02.1-01-06.1. Reciprocity.

The board may grant reciprocity, on such terms and conditions as it may determine necessary, to an applicant for licensure who is in good standing as a licensed, approved, or certified addiction counselor, licensed clinical addiction counselor, or licensed master addiction counselor under the laws of another jurisdiction that imposes at least substantially the same requirements that are imposed under this chapter. For the purposes of reciprocity as set forth in subsection 2 of North Dakota Century Code section 43-45-05.1~~, a~~:

1. A requirement of at least ~~one thousand four~~nine hundred sixty hours of supervised clinical experience as an addiction counselor is at least substantially the same as the clinical training requirements for a licensed addiction counselor in section 4.5-02.1-01-04.

2. A requirement of at least seven hundred hours of supervised clinical experience as an addiction counselor is at least substantially the same as the clinical training requirements for a licensed master addiction counselor in section 4.5-02.1-01-04.

3. A current national certified addiction counselor level II certification issued by the national association for alcoholism and drug abuse counselors meets the licensure requirements imposed under this chapter for a licensed addiction counselor.

4. A current master addiction counselor certification issued by the national association for alcoholism and drug abuse counselors meets the licensure requirements imposed under this chapter for a licensed master addiction counselor.

History: Effective April 1, 2009; amended effective July 1, 2018.
General Authority: NDCC 43-45-04
Law Implemented: NDCC 43-45-04, 43-45-05.1

4.5-02.1-01-07. Fees.

1.	Initial license fee:	
	a. Application for license received on or after January first of the even-numbered year and before July first of the even-numbered year	$300.00
	b. Application for license received on or after July first of the even-numbered year and before January first of the odd-numbered year	$250.00
	c. Application for license received on or after January first of the odd-numbered year and before July first of the odd-numbered year	$150.00
	d. Application for license received on or after July first of the odd-numbered year and before January first of the even-numbered year	$100.00
2.	Biennial renewal of license fee	$300.00
3.	Private practice initial fee	~~$150.00~~$200.00
4.	Late fee	~~$100.00~~$200.00
5.	Annual continuing education provider approval fee	~~$100.00~~$250.00
6.	Provider continuing education program approval fee	~~$35.00~~$50.00
7.	Fee for mailing list	~~$20.00~~$50.00
8.	Written examination fee is the national testing agency fee plus an additional board administrative fee of ~~forty~~fifty dollars.	

9. An individual who possessed a valid license to practice addition counseling on June 30, 2018, who applies for licensure as a licensed clinical addiction counselor or licensed master addiction counselor prior to January 1, 2024, shall pay an administrative fee of seventy-five dollars at the time of application.

10. An individual who is granted a license to practice addiction counseling on or after July 1, 2018, who meets the academic requirements for a licensed master addiction counselor and has completed the two thousand hours of clinical training shall pay an administrative fee of seventy-five dollars at the time of application.

The fees assessed by the board ~~has adopted the following~~are nonrefundable ~~fee payment schedule:~~.

History: Effective January 1, 2002; amended effective January 1, 2008; April 1, 2009; July 1, 2014; July 1, 2018.
General Authority: NDCC 43-45-04
Law Implemented: NDCC 43-45-04, 43-45-07

CHAPTER 4.5-02.1-02

4.5-02.1-02-02. Continuing education.

1. Continuing education credit is ~~an award given~~awarded to a participant at a workshop or seminar. ~~All~~To maintain licensure, licensed addiction counselors, licensed clinical addiction counselors, and licensed master addiction counselors are required to complete forty hours of continuing education for the two-year licensing period ~~to maintain licensure in North Dakota~~, at least six hours of which must be on the topic of professional ethics.

   a. Twenty approved continuing education hours are required if an addiction counselor is initially licensed between January first and June thirtieth of the odd-numbered year.

   b. No continuing education hours are required if an addiction counselor is initially licensed on or after July first of an odd-numbered year.

   c. Continuing education hours cannot be earned until after the license effective date and only within the current licensing period.

   d. Continuing education hours may only be applied to one licensing period.

   e. Applicants who were previously licensed in North Dakota but whose license lapsed for a period of less than five years shall complete forty continuing education hours, at least six of which must be on the topic of professional ethics, within the two years prior to application.

   f. Applicants who were previously licensed in North Dakota but whose licensed lapsed for a period of five years or more shall complete forty continuing education hours, at least six of which must be on the topic of ethics, within the two years prior to application. The board may require such an applicant to take a written examination approved by the board.

2. Any continuing education program to be used for addiction counseling or supervision of clinical practice continuing education units is subject to board approval, except continuing education programs sponsored or approved by the national association for alcoholism and drug abuse counselors, substance abuse and mental health services administration, the addiction technology transfer centers, the North Dakota addiction counselor's association, ~~or any other scientific or professional organization whose continuing education program is clearly relevant to the practice of addiction counseling. Other~~the American society of addiction medicine, the North Dakota department of human service's division of behavioral health, or the national institute of drug abuse. All other programs ~~may be approved at any time by the board by submission of an application~~shall submit an application on a form provided by the board, and request the board to approve the program.

3. All ~~persons wishing~~individuals seeking approval ~~must~~of continuing education credits earned from a person other than those listed in this section shall submit a request to the ~~licensing~~ board for approval of continuing education credits. Continuing education, workshops, webinars, and seminars must:

   a. Be related to the practice of addiction counseling, behavioral mental health, or best practice techniques.

   b. Have the potential to increase the licensee's proficiency in addiction counseling.

4. At the end of the two-year reporting cycle, each licensee or registrant shall submit a signed statement on a form provided by the board attesting to satisfaction of the continuing education

requirement. The licensee or registrant shall list the activities submitted for continuing education credit and the amount of credit claimed for each one and the date for each session.

5. The licensee or registrant may not submit the specific verification of each continuing education experience claimed, but must maintain a file of such verification documentation for two years following the submission of the reporting form.

6. At each reporting period, the board will select a random sample of approximately ten percent of the licensees ~~and registrants~~ and require them to provide verification of the continuing education experiences claimed on the reporting form.

7. ~~Ten~~Any licensed addiction counselor, licensed clinical addiction counselor, or licensed master addiction counselor who is registered as a clinical supervisor shall ensure at least three of the forty continuing education hours ~~for clinical supervisors must~~ contain materials related to clinical supervision techniques and skills, with documentation verifying the content submitted to the board upon request.

8. An approved provider is an entity or an individual approved by the board to provide continuing education without the need for prior board review on a program by program basis. Requirements to obtain and maintain status as an approved provider are as follows:

   a. Completed application.

   b. Application fee.

   c. Provider must ensure all programs offered contain a course outline, learning objectives, and an evaluation of the learning outcome of participants, and provide these documents to the board upon request.

   d. Provider must provide certificate of completion to participants. Failure to do so may result in the loss of approved provider status.

   e. Complaints against providers may be investigated by the board and may result in removal of provider approval status.

   f. Provider must renew the approval annually.

   g. Provider must create a system of monitoring participants' attendance at educational sessions for which the approved provider is awarding continuing education credits. The approved provider must provide documentation of attendance to the board upon request.

9. An approved program is one specific program, with defined continuing education contact hours, approved by the board. Requirements to obtain and maintain program approval status are as follows:

   a. Completed application.

   b. Application fee.

   c. Program must ensure the program offered contains a course outline, learning objectives, and an evaluation of the learning outcome of participants and provide these documents to the board upon request.

   d. Program approval must be approved annually.

History: Effective January 1, 2002; amended effective January 1, 2008; July 1, 2014; July 1, 2018.
General Authority: NDCC 43-45-04
Law Implemented: NDCC 43-45-04, 43-45-07

4.5-02.1-02-03. Address and name changes.

Any licensee must report a change of physical address, professional address for electronic mail, preferred telephone number, or name to the board in writing within thirty days of change.

History: Effective January 1, 2002; amended effective July 1, 2014; July 1, 2018.
General Authority: NDCC 43-45-04
Law Implemented: NDCC 43-45-04, 43-45-07

CHAPTER 4.5-02.1-03
CLINICAL TRAINING

Section
4.5-02.1-03-01 Clinical Training ~~Program~~Programs
4.5-02.1-03-02 Internship Registration [Repealed]

4.5-02.1-03-01. Clinical training program.

~~Each clinical~~Clinical training ~~program~~consortium programs for addiction counseling must be approved biennially by the board of addiction counseling examiners and must meet the following conditions:

1. ~~Facility requirements~~Existing training consortiums shall submit documentation to the board, including:

   a. ~~Training experiences must occur in at least two separate licensed treatment facilities with a minimum of three months in each facility, unless specifically approved by the board.~~

   ~~b. Each program may establish the length of its clinical training program, with a one thousand four hundred-hour minimum requirement.~~

   ~~c. Documentation must include:~~

   ~~(1)~~ Evidence of licensure by the North Dakota department of human services of each addiction treatment facility, or evidence of board approval.

   ~~(2) Training~~

   b. A training program manual which includes policies and procedures, including an organizational chart, which reflects clinical training program director, training facilities and facility supervisors, and admission policies.

   ~~(3) Training program goals and objectives for each clinical component of the training site.~~

   ~~(4) Trainee~~

   c. A training handbook, which should include trainee grievance procedure.

   ~~(5)~~d. Evidence of clinical supervisor at each treatment facility.

   ~~(6)~~e. Must notify board in writing of any substantial changes that impact the provision of adequate training, which includes the addition or loss of training facility sites or loss of clinical training program director.

~~2. Training requirements:~~

~~a. Each clinical training program shall conduct an oral examination using a performance-based case history and document successful passing of the examination by the trainee.~~

~~b. At the conclusion of a completed training program experience for a trainee, the training program must provide documentation of the provision of fifty hours of supervision with a minimum of thirty hours of direct visual observation by a clinical supervisor in each of the required clinical areas with the exception of documentation. Documentation must have thirty hours of reviewing the notes and discussing notes with the trainee. This will occur by each training program forwarding the trainee completion form, a copy of the trainee's~~

~~final monthly performance review, and verification of completion of an oral examination. The required clinical areas are:~~

~~(1) Screening, assessment, and treatment planning.~~

~~(2) Counseling services.~~

~~(3) Service coordination, case management, and referral services.~~

~~(4) Documentation, reading through notes, and reviewing assessments.~~

~~(5) Multicultural counseling, education, and professional ethics.~~

~~c. Indirect supervision occurs when discussing process and procedure as it relates to the five required clinical areas. This may occur in education and ongoing supervision meetings with a clinical supervisor.~~

~~3. Clinical training supervision requirements:~~

~~a. Clinical supervision must be provided by a board-registered clinical supervisor.~~

~~b. Clinical training programs must have one clinical supervisor for each individual clinical trainee.~~

~~4. Individual clinical training plans must be board-approved after they are submitted by and under the auspices of an approved clinical training program prior to the plan being implemented. Each plan must:~~

~~a. Designate the board-registered clinical supervisor responsible for clinical training.~~

~~b. Provide additional information as requested by the board.~~

~~5. Should a clinical training program at any time not meet board standards or not be in compliance with ethical expectations, it may result in board revocation of clinical training program approval.~~

~~6. Training program documentation requirements. All files of trainees must show proof of the following:~~

~~a. Proof of registration.~~

~~b. Monthly evaluations which include verification of trainee hours, signed by clinical supervisor.~~

~~c. Self-evaluation of trainee at completion of training for each site, including evaluation of site and clinical supervisor.~~

~~d. Successful completion of a performance-based case history and evidence of oral examination.~~

~~e. Proof of completion of training.~~

f. If the training consortium seeks to add an entity to its training consortium, the training consortium shall request the addition of that entity in writing and on forms approved by the board, for consideration by the board.

g. An entity seeking to create a new training consortium shall make a formal application to the board on a form approved by the board. A representative of the proposed training

consortium shall appear before the board to discuss the proposal and seek board approval.

History: Effective January 1, 2002; amended effective April 1, 2009; July 1, 2014; July 1, 2018.
General Authority: NDCC 43-45-04
Law Implemented: NDCC 43-45-04, 43-45-05.1

4.5-02.1-03-02. Internship registration.

Repealed effective July 1, 2018.

~~The internship is the practice of addiction counseling, under the supervision of a board-registered clinical supervisor, after the academic and clinical training program requirements are met. An intern will become licensed when application criteria are met and examinations are passed. The intern's supervision must be verified in writing to the board by signature of the onsite clinical supervisor.~~

~~1. **Qualifications.** To be eligible for registration as an intern, the following must be met:~~

~~a. All core academic coursework has been completed.~~

~~b. All clinical training program requirements have been board-approved.~~

~~2. **Registration.** An individual requesting to be registered as an intern shall make formal application to the board documenting the applicant's qualifications as required by this section.~~

~~3. **Expiration.** An individual may remain an intern for a maximum of two thousand hours. Upon showing of good cause the board, by special provision, may extend internship status for longer than one year. Request for extension of the internship registration period with documentation of need by clinical supervisor is the responsibility of the intern.~~

~~**History:** Effective January 1, 2002; amended effective January 1, 2008; April 1, 2009.~~
~~**General Authority:** NDCC 43-45-04~~
~~**Law Implemented:** NDCC 43-45-01, 43-45-04, 43-45-05.1~~

CHAPTER 4.5-02.1-04

4.5-02.1-04-02. Application for private practice registration.

1. **Qualifications.** To be eligible for registration to provide private practice, ~~a~~an individual must be licensed as a licensed clinical addiction counselor ~~must have ten thousand hours of full-time clinical experience as a licensed addiction counselor or a master's degree in a closely related social science or health care field with four thousand hours of post-master's clinical experience as~~or a licensed master addiction counselor.

2. **Registration.** Individuals requesting to be registered for private practice shall make a formal application to the board~~. This application must include:~~

~~a. Documentation of ten thousand hours of full-time clinical experience as a licensed addiction counselor or a master's degree and four thousand hours of post-master's clinical experience as a licensed addiction counselor.~~

~~b. Registration~~ and pay the registration fee.

History: Effective January 1, 2002; amended effective April 1, 2009; July 1, 2014; July 1, 2018.
General Authority: NDCC 43-45-04
Law Implemented: NDCC 43-45-04, 43-45-05.3

4.5-02.1-04-04. Application for clinical supervision registration.

1. Qualifications. To be eligible for registration to provide clinical supervision, the following must be met:

a. ~~Licensure as an addiction counselor.~~

~~b. A minimum of three years and a total of six thousand hours supervised experience as a licensed addiction counselor.~~

~~c. Twenty hours of continuing education contact hours in clinical supervision completed.~~

~~d. Letters of reference and recommendation from two board-registered clinical supervisors.~~Individuals who are licensed clinical addiction counselors shall obtain twenty hours of continuing education contact hours in clinical supervision within three years preceding submission of an application.

b. Individuals who are licensed addiction counselors shall provide documentation of the following:

(1) A minimum of three years of experience as a licensed addiction counselor, including a total of no less than six thousand hours of supervised experience.

(2) Twenty hours of continuing education contact hours in clinical supervision.

(3) Letters of reference and recommendation from two registered clinical supervisors.

2. Registration. Individuals requesting registration for clinical supervision shall make formal application ~~to~~documenting their qualifications on a form approved by the board ~~documenting their above qualifications~~.

3. ~~Individuals choosing to continue their~~All licensed clinical addiction counselors and licensed master addiction counselors seeking registration as a clinical supervisor ~~registration~~ must submit a signed statement on a form provided by the board verifying ~~eight~~three hours of clinical supervision-related coursework within the two-year continuing education cycle ~~in order~~

~~to maintain clinical supervisor status~~. If requested by the board, individuals must provide documentation of the continuing education coursework.

History: Effective January 1, 2002; amended effective January 1, 2008; July 1, 2014; July 1, 2018.
General Authority: NDCC 43-45-04
Law Implemented: NDCC 43-45-01, 43-45-04, 43-45-06

CHAPTER 4.5-02.1-05

4.5-02.1-05-01. Code of ethics.

A licensed addiction counselor and anyone under licensed addiction counselor supervision shall conduct the person's professional practice in conformity with the national association of alcoholism and drug abuse counselors code of ethics, as revised ~~March 28, 2011~~October 9, 2016.

History: Effective January 1, 2002; amended effective January 1, 2008; July 1, 2014; July 1, 2018.
General Authority: NDCC 43-45-04
Law Implemented: NDCC 43-45-04, 43-45-07.1

4.5-02.1-05-03. Complaint procedure.

1. Upon filing of a written and signed complaint alleging a licensee engaged in conduct identified as grounds for disciplinary action under North Dakota Century Code section 43-45-07.1, the board shall notify the licensee of the complaint and require a written response from the licensee.

2. The board may direct the ethics subcommittee or a board member to investigate the complaint. After completing the investigation, the ethics subcommittee or board member will recommend whether the board should take disciplinary action against the licensee.

3. The board shall determine if there is a reasonable basis to believe the licensee engaged in conduct identified as grounds for disciplinary action under North Dakota Century Code section 43-45-07.1. If the board determines there is not a reasonable basis to believe, the board will notify the complainant and the licensee. If the board determines there is a reasonable basis to believe, the board will proceed with a disciplinary action in accordance with North Dakota Century Code chapter 28-32.

4. The board, at any time, may offer or accept a proposal for informal resolution of the complaint or disciplinary action.

5. The board may impose a fee on the licensee for all or part of the costs of an action resulting in discipline, including administrative costs, investigation costs, attorney's fees, witness fees, the cost of the office of administrative hearings services, costs related to any requirements of public notice of the discipline, and court costs.

History: Effective January 1, 2002; amended effective July 1, 2014; July 1, 2018.
General Authority: NDCC 43-45-04
Law Implemented: NDCC 43-45-04, 43-45-07.3

TITLE 66

PSYCHOLOGIST EXAMINERS, BOARD OF

JULY 2018

CHAPTER 66-01-01

66-01-01-01. Organization of board of psychologist examiners.

1. **History.** The 1967 legislative assembly passed legislation establishing the state board of psychologist examiners, codified as North Dakota Century Code chapter 43-32. The board licenses psychologists, industrial-organizational psychologists, and applied behavior analysts, and registers applied behavior analysts.

2. **Purpose and mission.** The purpose of the board of psychologist examiners is to regulate the practice of psychology, as defined through the legislative authority of North Dakota Century Code chapter 43-32, in the interest of and to preserve and protect the health, safety, and welfare of the public.

3. **Board membership.** The board consists of seven members appointed by the governor. Members of the board serve three-year terms, with at least one but not more than three terms expiring each year.

   a. One member must be designated a public member who is a resident of this state, is at least twenty-one years of age, and is not affiliated with any group or profession that provides or regulates health care in any form.

   b. Of the remaining six board members, each must be licensed under this chapter for at least five years.

   c. At least one member must be currently engaged primarily in providing service ~~in psychology~~directly to the public.

   d. At least one member must be engaged primarily in teaching, training, or research ~~in psychology~~.

3. **Board officers.** The board annually elects from its membership a president, vice president, and secretary.

4. **Inquiries.** Inquiries regarding the board may be addressed to the ~~executive secretary~~board office:

   ~~Executive Secretary~~Board Office
   North Dakota State Board of Psychologist Examiners
   ~~P.O. Box 69~~
   ~~Tyrone, GA 30290~~402 East Main Street, Suite 5
   Bismarck, ND 58501-4421

History: Amended effective September 1, 1983; March 1, 1985; April 1, 1988; September 1, 2000; April 1, 2007; October 1, 2011; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 28-32-02

CHAPTER 66-02-01
LICENSURE AND EXAMINING APPLICATIONS

Section
66-02-01-01 Application Form
66-02-01-01.1 Regional Accrediting Association
66-02-01-02 Licensure Without Examination [Repealed]
66-02-01-03 Licensing of Psychologists, Industrial-Organizational Psychologists, and Applied Behavior Analysts, or Registration of Applied Behavior Analysts, From Other Jurisdictions - Expedited Licensing
66-02-01-04 Licensure by Equivalency [Repealed]
66-02-01-05 Licensure of Master's Level Psychologists [Repealed]
66-02-01-06 Licensure of Other Applicants
66-02-01-07 Application of Code of Ethics
66-02-01-07.1 Procedural Exception for Processing Multiple Allegations From the Same Individual
66-02-01-08 Fees
66-02-01-09 Number of Examinations
66-02-01-09.1 Written Examination
66-02-01-10 Guidelines for ~~Oral~~Professional Responsibility Examinations
66-02-01-11 Additional Documentation for Clinical Work or Counseling or Therapy [Repealed]
66-02-01-11.1 Supervised Professional Experience
66-02-01-12 Identifying Psychology and Industrial-Organizational Psychology Doctoral Programs as Substantially Psychological in Nature [Repealed]
66-02-01-12.1 Approved Industrial-Organizational Psychology Program Accrediting Bodies
66-02-01-13 Psychology Resident and Industrial-Organizational Psychology Resident
66-02-01-14 Nonpayment of Annual License Fee or Failure to Complete Continuing Education
66-02-01-15 Requirements for Licensing and Registering Applied Behavior Analysts
66-02-01-16 Limited Practice Without a License

66-02-01-03. Licensing of psychologists, industrial-organizational psychologists, and applied behavior analysts, or registration of applied behavior analysts, from other jurisdictions - Expedited licensing.

1. Licensing of psychologists, industrial-organizational psychologists, and applied behavior analysts, or registration of applied behavior analysts, who are licensed or registered by other jurisdictions ~~will~~must follow the procedures described in North Dakota Century Code sections 43-32-19.1 and 43-51-06 and one of the following requirements:

   a. Expedited licensing. A license or registration may be granted to an individual licensed or registered in good standing in another jurisdiction if ~~that other jurisdiction imposes requirements for licensure or registration which are determined by the board to be substantially equivalent to North Dakota~~the board concludes it received verified documentation of:

      (1) Graduation from an accredited program in the degree level of licensure sought in North Dakota;

      (2) Previously passed any national examination required by North Dakota;

      (3) Documentation of all professional licensures held at any time in any field and current status of those licenses, including an explanation and documentation related to all disciplinary history; and

      (4) Provide endorsements of application from behavioral health professionals that possess a current license, certification, registration, or other written authorization to practice from a state or provincial regulatory body, as approved by the board.

b. A license or registration may be granted to an individual who holds a certificate of professional qualification in psychology issued by the association of state and provincial psychology boards or its successor.

c. A license may be granted to an individual who meets the requirements of any interstate compact agreement adopted by the state of North Dakota on the practice of psychologists, industrial organizational psychologists, or applied behavior analysts.

2. An applicant for licensure pursuant to North Dakota Century Code chapters 43-32 and 43-51 must pass the North Dakota oral examination or, once developed, the North Dakota professional responsibility examination as determined by the board.

3. Upon the board's receipt of a completed application initiation form from an individual licensed or registered in another jurisdiction or certified by the behavior analyst certification board, the board may grant a provisional license or registration that is valid for six months from date of initial application if the applicant is currently in good standing with no disciplinary actions in the previous five years. Upon a showing of good cause, the board may grant extensions of provisional licenses or registrations for periods of up to six months. If an application for licensure is denied during the time an applicant holds a provisional license or registration, the provisional license or registration expires on the date of the denial of the application for licensure.

History: Amended effective September 1, 2000; April 1, 2007; October 1, 2011; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 43-32-08
Law Implemented: NDCC 43-32-19.1, 43-51-06

66-02-01-06. Licensure of other applicants.

All other applicants for licensing will follow the procedure set forth in North Dakota Century Code sections 43-32-20 and 43-32-34.

1. The American psychological association and the Canadian psychological association are accrediting bodies approved by the board under the requirements of subdivision b of subsection 1 of North Dakota Century Code section 43-32-20.

2. The American psychological association and the Canadian psychological association are accrediting bodies approved by the board under the requirements of subdivision b of subsection 2 of North Dakota Century Code section 43-32-20. Applicants for a license in industrial-organizational psychology may also meet the requirements of subdivision b of subsection 2 of North Dakota Century Code section 43-32-20 by demonstrating completion of a program that substantively adheres to the guidelines for education and training at the doctoral level in industrial-organizational psychology of the society for industrial and organization psychology division of the American psychological association, August 1999 version.

3. Applicants for a license in applied behavior analysis that complete certification from the behavior analyst certification board meet the education requirements set forth in subdivision b of subsection ~~2~~3 of North Dakota Century Code section ~~43-32-34~~43-32-20.

History: Amended effective July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 43-32-08
Law Implemented: NDCC 43-32-20, 43-32-34

66-02-01-08. Fees.

A completed application initiation form and paid fee must be on file with the board prior to beginning practice under provisional licensure or registration. Failure to pay the annual licensure renewal fee or annual registration renewal fee by November 15 of each calendar year will delay renewal issuance and require the cessation of practice during any period of time the individual has not been issued a valid license or registration. The following deadlines and fees have been set by the board:

Document or Process	Temporal Requirement or Deadline for Receipt by Board Office	Fee Amount
Supervisor form, submitted by ~~psychology resident supervisor or registered behavior analyst supervisor~~any licensee supervising the practice of psychology residents or registered applied behavior analysis in North Dakota	Prior to beginning practice in North Dakota	$0
Application initiation form	Accepted any time prior to completion of online application and prior to beginning practice in North Dakota	$450
Online application	Completed prior to board review	Fee assessed by and payable to the association of state and provincial psychology boards
Provisional licensure letter or provisional registration letter	Issued by the board upon receipt of the completed application initiation form and fee	$0
Psychology resident letter	Issued by the board upon receipt of the completed supervisor form ~~and~~, application initiation form, and fee	$0
The national written examination for the professional practice of psychology	Occurs after applicant is approved by the board	A fee is assessed by and payable to test company and a fee is assessed by and payable to the testing site
Oral examination	Occurs after applicant is approved by the board or passes the national written examination	$0
North Dakota professional responsibility examination	Once developed, and approved by the board as a replacement for the oral examination, the exam is taken after applicant is approved by the board or passes the national written examination	$50
Temporary limited practice application	Complete documentation must be received and approved by the board prior to practice	$25
Temporary limited practice certificate	~~Complete documentation must be received and approved by the board prior to practice~~Issued upon board approval of application	~~$0~~
License renewal or registration renewal application	November 15, for renewal on January 1 of the next year	$250
Late renewal application	Received after November 15 and prior to ~~November 15~~December 31 of the next year	$100
Late request for an extension of time to submit continuing education documentation	Received after November 15 but prior to January 1 of subsequent year	$100
Continuing education documentation form	Prior to November 15 of reporting cycle	$0

Incomplete continuing education requirements	Continuing education completed after November 1 of reporting cycle	$50
Official licensee or registrant verification, per record	Upon request of verification of licensure or registration by third parties	$15
Official licensee or registrant verification, per record	Upon request of verification of licensure by regulatory body	$0
Continuing education program approval application	Accepted any time from continuing education sponsors	$25
Continuing education program approval application	Accepted from licensees or registrants prior to November 1 of next reporting cycle	$0
Various service related	Prior to processing	Variable fees as set by third parties approved by the board, related to examinations, online application, and payment processing

History: Amended effective March 1, 1985; April 1, 1988; September 1, 2000; April 1, 2007; October 1, 2011; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 43-32-08
Law Implemented: NDCC 43-32-12, 43-32-13

66-02-01-09. Number of examinations.

The national written examination will be administered by computer at designated testing sites throughout the calendar year. ~~The North Dakota oral examination will be administered by the board at least twice each year.~~ The North Dakota professional responsibility examination will be administered by the board at least twice each calendar year ~~once it is developed and adopted by the board as a replacement for the oral examination~~as a written, oral, or written and oral examination, as determined by the board.

History: Amended effective September 1, 2000; February 1, 2002; April 1, 2016; July 1, 2018.
General Authority: NDCC 43-32-08
Law Implemented: NDCC 43-32-22

66-02-01-09.1. Written examination.

The national written examination for psychologists and industrial-organizational psychologists is the examination for the professional practice of psychology. The passing score is a scaled score of 500. Prior to April 18, 1994, seventy percent correct is considered a passing score. A passing score is required for applicants for licensure as a psychologist or as an industrial-organizational psychologist.

Once the written North Dakota professional responsibility examination is developed, the board may require applicants to pass it as a replacement of the oral examination. The written North Dakota professional responsibility examination will assess the applicant's knowledge of North Dakota law regulating the practice of psychology, industrial-organizational psychology, or applied behavior analysis as well as the applicant's understanding of ethics, professional law, and standards of practice. The written North Dakota professional responsibility examination will be administered by at least ~~two~~one board ~~members~~member who will proctor and score the examination, and recommend pass or fail to the board. An examinee passes the examination if the majority of the board members present at ~~the~~a subsequent board meeting vote to confirm passage.

History: Effective September 1, 2000; amended effective February 1, 2002; April 1, 2007; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 43-32-08
Law Implemented: NDCC 43-32-20, 43-32-23

66-02-01-10. Guidelines for ~~oral~~professional responsibility examinations.

The ~~oral~~professional responsibility examination will be scheduled as appropriate but not less than twice a year. The examination shall assess the applicant's knowledge of North Dakota law regulating the practice of psychology, industrial-organizational psychology, or applied behavior analysis as well as the applicant's understanding of ethics and standards of practice. Specific questions to be used will be selected at the time of the examination from a pool of questions available for that purpose in either oral or written form. The oral examination will be administered by an examination committee made up of at least two board members and any other licensed psychologist or licensed applied behavior analyst whom the board sees fit to add to the examining committee. The examination committee will use a structured oral examination, will record the applicants' answers, and will discuss the results. The board members serving on the examination committee shall recommend a pass ~~of~~or fail to the board. An examinee passes the examination if the majority of the board members present at the meeting vote to confirm passage.

History: Effective March 1, 1985; amended effective April 1, 1988; April 1, 2007; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 43-32-08
Law Implemented: NDCC 43-32-20, 43-32-22, 43-32-23, 43-32-34

66-02-01-11.1. Supervised professional experience.

1. Applicants for licensure as a psychologist must complete one thousand five hundred hours of supervised predoctoral internship in the practice of psychology. At least one hundred hours of supervision is required, at least fifty of which must be one to one. Successful completion of an American psychological association or Canadian psychological association accredited internship will be accepted as fulfilling this requirement. Any other supervised predoctoral internship experience must be described in detail by the applicant, including nature of service setting or settings, nature of consumers served, nature and amount of supervision, and specific skills in which the applicant demonstrated proficiency on forms provided by the board. The supervisor or supervisors must corroborate the areas of competence claimed by the applicant. In addition, an applicant for licensure as a psychologist must complete one or a combination of the following:

   a. One thousand five hundred hours of supervised postdoctoral experience in the practice of psychology. At least one hundred hours of supervision is required, at least fifty of which must be one to one with a psychologist licensed in good standing. Successful completion of an American psychological association or Canadian psychological association accredited postdoctoral program will be accepted as fulfilling this requirement. Any other supervised postdoctoral experience must be described in detail by the applicant, including nature of service setting or settings, nature of consumers served, nature and amount of supervision, and specific skills in which the applicant demonstrated proficiency on forms provided by the board. The supervisor or supervisors must corroborate the areas of competence claimed by the applicant.

   b. One thousand five hundred hours of additional supervised predoctoral training experience in the practice of psychology. At least one hundred hours of supervision is required, at least fifty of which must be one to one with a psychologist licensed in good standing. In addition, this training experience must meet all of the following requirements:

      (1) Be part of a doctoral program that meets requirements of subdivision b of subsection 1 of North Dakota Century Code section 43-32-20.

      (2) Be completed within six years of the award of the terminal doctoral degree.

      (3) Be completed within ten years of first application for licensure.

(4) Be completed following any introductory practicum experience in applied professional psychology or psychotherapy of a minimum duration of six hundred hours.

(5) Be part of an individualized written plan for an organized, sequential series of supervised experiences of increasing complexity.

(6) Occur outside of the classroom setting and involve the trainee's direct delivery of supervised psychological services in a practice, agency, institution, counseling center, graduate training clinic, or other setting approved by the director of training or designee.

(7) Consist of activities defined as the practice of psychology by subsection 6 of North Dakota Century Code section 43-32-01.

(8) Occur in placements that are made or approved in advance by the doctoral program director of training or designee.

(9) Occur in placements in which a licensed psychologist is directly responsible for the integrity and quality of the training experience and specifies training objectives in terms of the competencies expected of the trainee.

(10) Have an identifiable licensed psychologist who serves as the primary supervisor of the trainee, is clearly available to and professionally responsible for the trainee's clients or patients, has been licensed for at least three years, and is licensed in the jurisdiction in which the training occurs.

(11) Be part of a sequential training plan that consists of no less than thirty weeks with a weekly onsite presence of no less than fifteen hours.

(12) Provide, on average, weekly individual face-to-face supervision, which may include remote face-to-face audio and video interactions, devoted to the trainee's cases at a ratio of no less than one hour per fifteen hours onsite and no less than one hour per week. No less than fifty percent of the supervision required in this paragraph shall be provided by the primary supervisor. The remaining face-to-face supervision required in this paragraph may be individual or group supervision provided by a licensed psychologist who has been licensed for at least three years. Supplemental individual or group supervision in excess of the minimum ratio required is encouraged, and may be provided by a psychologist, school psychologist, other licensed mental health professional, or a psychology trainee under an umbrella supervision arrangement, but it may not replace the weekly individual face-to-face supervision requirements.

(13) May include the use of secure remote technologies, such as telephone, internet, or online communications as a supplemental training and consultation aid and for supervision in excess of the minimum ratio required, although it may not replace the minimum weekly face-to-face individual supervision requirement.

(14) Must include on average at least one additional hour per week in learning activities, such as additional face-to-face individual supervision, group supervision, case conference or grand rounds, didactic consultations with psychologists or other appropriate licensed mental health professionals, guided professional readings, seminars, or cotherapy with a licensed psychologist or other appropriate professional.

(15) Must include regularly scheduled and documented interaction concerning the trainee's progress between the primary supervisor and the director of training at the

graduate program or designee, and copies of such documentation will be provided to the board for review upon request.

2. Applicants for licensure as an industrial-organizational psychologist must complete three thousand hours of supervised experience in the practice of industrial-organizational psychology. At least one thousand five hundred hours must be completed after the granting of the doctoral degree. Applicants must submit an individualized supervision plan that is subject to approval by the board. Supervisors of industrial-organizational psychologist applicants must be licensed in their jurisdiction of practice. The supervised experience of applicants for licensure as an industrial-organizational psychologist must be consistent with the applicant's intended area of practice.

History: Effective September 1, 2000; amended effective April 1, 2007; October 1, 2011; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 43-32-08
Law Implemented: NDCC 43-32-20, 43-32-20.1

66-02-01-13. Psychology resident and industrial-organizational psychology resident.

1. A person intending to perform services as a psychology resident or an industrial-organizational psychology resident, prior to engaging in any practice related to the scope of psychology or applied behavior analysis, shall:

   a. Initiate an application for licensure with the board on the application initiation form provided by the board;

   b. Pay the application fee to the board; and

   c. Ensure a supervisor has filed a completed supervisor form to the board.

2. The applicant shall complete the online application requirements set forth on the application initiation form and shall ensure the completed online application is submitted to the board within three months of the date of initiation of application.

   a. A psychology resident or industrial-organizational psychology resident may sit for the required national written examination the board determines the applicant to be eligible for licensure upon completion of examinations and ~~postdoctoral~~supervised experience requirements. The applicant will be informed of the results and may be re-examined at a subsequent examination upon again paying any required examination fee.

   b. A psychology resident or an industrial-organizational psychology resident who has passed the national written examination may sit for the ~~oral examination or a replacement~~professional responsibility examination approved by the board. The applicant will be informed of the results and may be re-examined at a subsequent examination upon again paying any required examination fee.

   c. The psychology resident or an industrial-organizational psychology resident and supervising psychologist or psychologists must update the online application report all completed supervised postdoctoral experience and ensure that the updated online application is forwarded to the board.

   d. The board shall review recommendations related to the applicant's examinations and the applicant's supervised practice hours. An applicant must be licensed if a majority of the board approves the applicant for licensure.

   e. A person may have psychology resident or industrial-organizational psychology resident status for up to three years from the date the residency is issued.

3. A psychology resident or industrial-organizational psychology resident must specify that individual's professional title in reports, letters, business cards, and public presentations, and inform service recipients of the supervisor's identity and contact information for the services provided.

4. Supervising psychologists of psychology residents must be licensed in good standing for at least three years. Supervising psychologists of psychology residents must have adequate training, knowledge, and skill to render competently, or have available consultation for, any psychological service their supervisee undertakes. ~~Supervising~~All supervising psychologists must meet the continuing education requirements in section 66-03-01-04.

5. To verify completion of the residency, the supervising psychologist of the psychology resident or the industrial-organizational resident shall submit documentation to the board of the number and nature of supervised hours of experience.

History: Effective September 1, 2000; amended effective April 1, 2007; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 43-32-08
Law Implemented: NDCC 43-32-20, 43-32-20.1, 43-32-30

66-02-01-15. Requirements for licensing and registering applied behavior analysts.

1. The board may grant an applied behavior analyst license to an applicant in the practice of applied behavior analysis, who meets all of the following requirements:

   a. The applicant has a degree from a school or college that meets one of the following requirements:

      (1) A degree meeting the requirements of subdivision b of subsection 1 of North Dakota Century Code section 43-32-20.

      (2) A doctorate or master's degree from a program accredited or verified by the association for behavior analysis international or approved by the behavior analyst certification board.

   b. The applicant has passed the board-certified behavior analyst examination offered by the behavior analyst certification board.

   c. The applicant is certified by the behavior analyst certification board.

   d. The applicant has passed the North Dakota oral examination, or the North Dakota professional responsibility examination once developed and approved by the board.

2. The board may grant an applied behavior analyst registration to an applicant in the practice of applied behavior analysis, who meets all of the following requirements:

   a. The applicant has a bachelor's degree from a school or college that meets one of the following requirements:

      (1) A bachelor's degree in a program accredited or verified by the association for behavior analysis international.

      (2) A bachelor's degree in a program approved by the behavior analyst certification board.

      (3) A bachelor's degree with a major in psychology or other human service field that includes all of the following coursework:

(a) Three semester credits, or the equivalent quarter credits, in introduction to psychology.

(b) Six semester credits, or the equivalent quarter credits, in learning theory and behavior intervention.

(c) Three semester credits, or the equivalent quarter credits, in abnormal psychology.

(d) Four semester credits, or the equivalent quarter credits, in developmental psychology and autism spectrum disorder topics.

b. The applicant has passed the board-certified assistant behavior analyst examination offered by the behavior analyst certification board, or achieved a score of at least four hundred fifty on the national written examination for the professional practice of psychology.

c. The applicant has provided a list of licensed psychologists and licensed applied behavior analysts supervising the applicant. If registered, the applicant must promptly notify the board of any changes in the list.

~~e.~~d. The applicant has passed the North Dakota oral examination or ~~a replacement~~, the North Dakota professional responsibility examination once developed and approved by the board.

History: Effective October 1, 2012; amended effective April 1, 2016; July 1, 2018.
General Authority: NDCC 43-32-08
Law Implemented: NDCC 43-32-34

66-03-01-03. Board approval.

Any continuing education ~~program relevant to psychology, industrial-organizational psychology, or applied behavior analysis and to be applied as continuing education credits is subject to board approval, except continuing education programs sponsored or approved by the~~credits completed for renewal of licensure must be approved by the board. An approved program of continuing education means an educational or competence training program offered by an approved provider of continuing education. An approved provider of continuing education means any professional association or society, university, college, corporation, or other entity that has been approved by the board to provide educational programs that are designed to assure continued competence in professional practice. The following providers have been recognized as approved by the board and do not require pre-approval prior to reporting deadlines:

1. The American psychological association~~, the~~;
2. The Canadian psychological association~~, the~~;
3. The North Dakota or any other state or provincial psychological or behavior analytical association~~, other state or provincial psychological associations, or any other scientific or professional organization whose continuing education program is clearly relevant to the practice of psychology. Other scientific or professional organizations include association on behavior analysis international, behavior analyst certification board, North Dakota association on behavior analysis, American association on intellectual and developmental disabilities, and northland association for behavior analysis.~~ or regulatory body;
4. The association on behavior analysis international;
5. The behavior analyst certification board;
6. The American association of intellectual and developmental disabilities;
7. The northland association for behavior analysis;
8. The American medical association for content related to practice authorized in North Dakota century code chapter 43-32; and
9. The association of social work boards approved continuing education program for content related to practice authorized in North Dakota century code 43-32.

Continuing education programs may be approved at any time by the board by submission of a continuing education program approval application form by the sponsoring provider organization ~~or an individual~~ and payment of a twenty-five dollar fee. A licensee planning to attend a program that has not been pre-approved may submit an approval application form without a fee.

History: Effective February 1, 1995; amended effective September 1, 2000; April 1, 2007; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 43-32-08
Law Implemented: NDCC 43-32-08.1

66-03-01-06. Failure to comply with the continuing education requirement.

If a licensee or registrant does not satisfy the number of credits required for a two-year cycle, the board may exercise the following options:

1. Extension of time to complete the requirement may be granted if sufficient evidence of illness or serious extenuating circumstances amounting to good cause is presented in writing to the board. Requests for extension are due by November ~~first~~fifteenth of the reporting year. If the extension request is received after November ~~first~~fifteenth of the reporting year, the applicant shall submit the fee for a late request of an extension of time to submit continuing education documentation along with the request for an extension. The approval of an extension and the amount of time granted to complete the requirements are at the sole discretion of the board. If a request for an extension is granted the licensee will be required to continue to fulfill the continuing education requirement for the next two-year cycle, in addition to any continuing education requirements that may apply to the extension period. A licensee who receives an extension shall undergo a mandatory audit of continued education documentation for the two reporting cycles following the conclusion of the extension period.

2. Expired license or registration. A license or registration that is expired because of failure to meet the continuing education requirements will be renewed if, within one year from the date of nonrenewal, the licensee or registrant reapplies for renewal, documents the completion of the previous reporting period continuing education requirements, pays the renewal fee, and pays the late fee established by the board in the fee section above.

History: Effective February 1, 1995; amended effective September 1, 2000; April 1, 2007; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 43-32-08
Law Implemented: NDCC 43-32-08.1, 43-32-08.2

TITLE 69

PUBLIC SERVICE COMMISSION

JULY 2018

ARTICLE 69-06
ENERGY CONVERSION AND TRANSMISSION FACILITY SITING

Chapter	
69-06-01	General Provisions
69-06-02	Utility Reporting Requirements
69-06-02.1	Requests for Jurisdictional Determination
69-06-03	Letter of Intent [Repealed]
69-06-04	Certificate of Site Compatibility
69-06-05	Transmission Facility Permit
69-06-06	Waiver of Procedures and Time Schedules
69-06-07	Emergency Certificate or Permit [Repealed]
69-06-08	Criteria
69-06-09	Continuing Suitability of Certificate or Permit
69-06-10	Small Wind Energy Conversion Facilities
69-06-11	Wind Energy Conversion Facility Lighting Systems

CHAPTER 69-06-08

69-06-08-01. Energy conversion facility siting criteria.

The following criteria must guide and govern the preparation of the inventory of exclusion and avoidance areas, and the site suitability evaluation process.

1. **Exclusion areas.** The following geographical areas must be excluded in the consideration of a site for an energy conversion facility.

   a. Designated or registered national: parks; memorial parks; historic sites and landmarks; natural landmarks; historic districts; monuments; wilderness areas; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.

   b. Designated or registered state: parks; forests; forest management lands; historic sites; monuments; historical markers; archaeological sites; grasslands; wild, scenic, or recreational rivers; game refuges; game management areas; management areas; and nature preserves.

   c. County parks and recreational areas; municipal parks; parks owned or administered by other governmental subdivisions; hardwood draws; and enrolled woodlands.

   d. Prime farmland and unique farmland, as defined by the land inventory and monitoring division of the soil conservation service, United States department of agriculture, in

7 C.F.R. part 657; provided, however, that if the commission finds that the prime farmland and unique farmland that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural productions, this exclusion does not apply.

e. Irrigated land.

f. Areas critical to the life stages of threatened or endangered animal or plant species.

g. Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.

h. Areas within one thousand two hundred feet of the geographic center of an intercontinental ballistic missile (ICBM) launch or launch control facility.

2. **Additional exclusion areas for wind energy conversion facilities.** The following geographical areas must be excluded in the consideration of a site for a wind energy conversion facility:

a. Areas ~~less than~~within:

(1) One and one-tenth times the height of the turbine from interstate or state roadway right of way;

(2) One and one-tenth times the height of the turbine plus seventy-five feet from the centerline of any county or maintained township roadway;

(3) One and one-tenth times the height of the turbine from any railroad right of way;

(4) One and one-tenth times the height of the turbine from a one hundred fifteen kilovolt or higher transmission line; and

(5) One and one-tenth times the height of the turbine from the property line of a nonparticipating landowner and three times the height of the turbine from an inhabited rural residence of a nonparticipating landowner, unless a variance is granted. A variance may be granted if an authorized representative or agent of the permittee, the nonparticipating landowner, and affected parties with associated wind rights file a written agreement expressing all parties' support for a variance to reduce the setback requirement in this subsection. A nonparticipating landowner is a landowner that has not signed a wind option or an easement agreement with the permittee of the wind energy conversion facility as defined in North Dakota Century Code chapter 17-04.

3. **Avoidance areas.** The following geographical areas may not be approved as a site for an energy conversion facility unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an avoidance area should be designated for a facility the commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative sites. Economic considerations alone will not justify approval of these areas. A buffer zone of a reasonable width to protect the integrity of the area must be included. Natural screening may be considered in determining the width of the buffer zone.

a. Historical resources which are not designated as exclusion areas.

b. Areas within the city limits of a city or the boundaries of a military installation.

c. Areas within known floodplains as defined by the geographical boundaries of the hundred-year flood.

d. Areas that are geologically unstable.

e. Woodlands and wetlands.

f. Areas of recreational significance which are not designated as exclusion areas.

4. **Additional avoidance areas for wind energy conversion facilities.** A wind energy conversion facility site must not include a geographic area where, due to operation of the facility, the sound levels within one hundred feet of an inhabited residence or a community building will exceed fifty dBA. The sound level avoidance area criteria may be waived in writing by the owner of the occupied residence or the community building.

5. **Selection criteria.** A site may be approved in an area only when it is demonstrated to the commission by the applicant that any significant adverse effects resulting from the location, construction, and operation of the facility in that area as they relate to the following, will be at an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum. The effects to be considered include:

   a. The impact upon agriculture:

      (1) Agricultural production.

      (2) Family farms and ranches.

      (3) Land which the owner demonstrates has soil, topography, drainage, and an available water supply that cause the land to be economically suitable for irrigation.

      (4) Surface drainage patterns and ground water flow patterns.

      (5) The agricultural quality of the cropland.

   b. The impact upon the availability and adequacy of:

      (1) Law enforcement.

      (2) School systems and education programs.

      (3) Governmental services and facilities.

      (4) General and mental health care facilities.

      (5) Recreational programs and facilities.

      (6) Transportation facilities and networks.

      (7) Retail service facilities.

      (8) Utility services.

   c. The impact upon:

      (1) Local institutions.

      (2) Noise-sensitive land uses.

      (3) Light-sensitive land uses.

(4) Rural residences and businesses.

(5) Aquifers.

(6) Human health and safety.

(7) Animal health and safety.

(8) Plant life.

(9) Temporary and permanent housing.

(10) Temporary and permanent skilled and unskilled labor.

d. The cumulative effects of the location of the facility in relation to existing and planned facilities and other industrial development.

6. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits. The benefits to be considered include:

a. Recycling of the conversion byproducts and effluents.

b. Energy conservation through location, process, and design.

c. Training and utilization of available labor in this state for the general and specialized skills required.

d. Use of a primary energy source or raw material located within the state.

e. Not relocating residents.

f. The dedication of an area adjacent to the facility to land uses such as recreation, agriculture, or wildlife management.

g. Economies of construction and operation.

h. Secondary uses of appropriate associated facilities for recreation and the enhancement of wildlife.

i. Use of citizen coordinating committees.

j. A commitment of a portion of the energy produced for use in this state.

k. Labor relations.

l. The coordination of facilities.

m. Monitoring of impacts.

n. A commitment to install lighting mitigation technology for wind energy conversion facilities subject to commercial availability and federal aviation administration approval.

History: Amended effective August 1, 1979; July 1, 2006; April 1, 2013; July 1, 2017; July 1, 2018.
General Authority: NDCC 28-32-02, 49-22-18
Law Implemented: NDCC 49-22-05.1, 49-22.1-03

CHAPTER 69-06-11
WIND ENERGY CONVERSION FACILITY LIGHTING SYSTEMS

Section
69-06-11-01 Definitions
69-06-11-02 Implementation
69-06-11-03 Service, Maintenance, Safety, and Lighting System Standards

69-06-11-01. Definitions.

In this chapter:

1. "Aircraft detection lighting system" means a sensor-based system designed to detect aircraft as they approach a wind energy conversion facility; this system automatically activates obstruction lights until they are no longer needed.

2. "Commission" means the public service commission.

3. "Light intensity dimming solution technology" means obstruction lighting that provides a means of tailoring the intensity level of lights according to surrounding visibility.

4. "Light-mitigating technology system" means aircraft detection lighting system, lighting intensity dimming solution technology, or a comparable solution capable of reducing the impact of nighttime lighting while maintaining night conspicuity sufficient to assist aircraft in identifying and avoiding collision with the facilities.

5. "Owner" means a person who holds a certificate of site compatibility pursuant to North Dakota Century Code chapter 49-22.

6. "Wind energy conversion facility" means any plant, addition, or combination of plant and addition, designed for or capable of generation by wind energy conversion exceeding one-half megawatt of electricity.

History: Effective July 1, 2018.
General Authority: NDCC 28-32-02, 49-22-18
Law Implemented: NDCC 49-22-16.4

69-06-11-02. Implementation.

1. A wind energy conversion facility for which a certificate of site compatibility was issued after June 5, 2016, must be equipped with a functioning light-mitigating technology in compliance with this chapter by December 31, 2019.

2. A wind energy conversion facility for which a certificate of site compatibility was issued before June 5, 2016, must be equipped with a functioning light-mitigating technology in compliance with this chapter by December 31, 2021. The commission may grant an extension of time based on technical or economic feasibility considerations.

3. The commission may grant a waiver of this chapter for a wind energy conversion facility designed for or capable of generating no more than five megawatts of electricity upon a motion demonstrating good cause for the waiver.

4. To allow proper conspicuity of a turbine at night during construction, a turbine may be lighted with temporary lighting until the permanent lighting configuration, including the light-mitigating technology, is implemented.

5. Owner shall provide written notice to the commission upon implementation of light-mitigating technology in compliance with this chapter.

6. Owner is solely responsible for any costs associated with the implementation, operation, and maintenance of each light-mitigating technology system.

7. An extension request must be in writing and contain:

a. The purpose of the extension;

b. A description of the light-mitigating technologies submitted to the federal aviation administration;

c. The technical or economic inability to implement light-mitigating technology systems;

d. The length of extension requested; and

e. Any other information requested by the commission.

History: Effective July 1, 2018.
General Authority: NDCC 28-32-02, 49-22-18
Law Implemented: NDCC 49-22-16.4

69-06-11-03. Service, maintenance, safety, and lighting system standards.

Each light-mitigating technology system must be installed, operated, and maintained in accordance with United States department of transportation federal aviation administration regulations [14 CFR 1.1. et. seq] in effect as of July 1, 2018.

History: Effective July 1, 2018.
General Authority: NDCC 28-32-02, 49-22-18
Law Implemented: NDCC 49-22-16.4

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 December 31, ~~2015~~2017, are adopted by reference:

1. Part 190 - Pipeline Safety Programs and Rulemaking Procedures.
2. Part 191 - Transportation of Natural Gas and Other Gas by Pipeline, Annual Reports, Incident Reports, and Safety-Related Condition Reports.
3. Part 192 - Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards.
4. Part 193 - Liquefied Natural Gas Facilities: Federal Safety Standards
~~4.~~5. Part 194 - Response Plans for Onshore Oil Pipelines
~~5.~~6. Part 195 - Transportation of Hazardous Liquids by Pipeline.
~~6.~~7. Part 199 - Drug and Alcohol Testing.

Copies of these regulations may be obtained from:

Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 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; February 1, 1996; July 1, 1997; July 1, 1998; September 1, 1999; August 1, 2000; January 1, 2002; November 1, 2003; May 1, 2005; July 1, 2006; April 1, 2008; January 1, 2010; April 1, 2012; April 1, 2015; October 1, 2016; July 1, 2018.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 49-02-01.2

CHAPTER 69-09-09
WIND FACILITY DECOMMISSIONING

Section
69-09-09-01 Definitions
69-09-09-02 Decommissioning Responsibility
69-09-09-03 Abandonment and Useful Life - Certificate of Operation
69-09-09-04 Decommissioning Period
69-09-09-05 Decommissioning Requirements
69-09-09-06 Decommissioning Plan
69-09-09-07 Existing Facilities
69-09-09-08 Financial Assurance
69-09-09-09 Failure to Decommission
69-09-09-10 Wind Energy Conversion Facility - Waiver

69-09-09-10. Wind energy conversion facility - Waiver.

The commission may grant a waiver of any requirement described in sections 69-09-09-03, 69-09-09-06, or 69-09-09-08 for a commercial wind energy conversion facility with a nameplate generating capacity of no more than five megawatts of electricity upon a motion demonstrating good cause for the waiver.

History: Effective July 1, 2018.
General Authority: NDCC 28-32-02, 49-02-27
Law Implemented: NDCC 49-02-27

TITLE 71

RETIREMENT BOARD

JULY 2018

CHAPTER 71-02-01

71-02-01-01. Definitions.

As used in North Dakota Century Code chapter 54-52 and this article:

1. "Accumulated contributions" means the total of all of the following:

   a. The employee account fund balance accumulated under the prior plan as of June 30, 1977.

   b. The vested portion of the employee's "vesting fund" accumulated under the prior plan as of June 30, 1977.

   c. The member's mandatory contributions made after July 1, 1977.

   d. The member's vested employer contributions made after January 1, 2000, pursuant to North Dakota Century Code section 54-52-11.1.

   e. The interest on the sums determined under subdivisions a, b, c, and d, compounded annually at the rate of five percent from July 1, 1977, to June 30, 1981, six percent from July 1, 1981, through June 30, 1986, and one-half of one percent less than the actuarial interest assumption from July 1, 1986, to the member's ~~termination of employment~~withdrawal from the plan or retirement.

   f. The sum of any employee purchase or repurchase payments.

2. "Actuarial equivalent" means a benefit calculated to be of equal value to the benefit otherwise payable when computed on the basis of assumptions and methods adopted for this purpose by the board in a way that precludes employer discretion pursuant to Internal Revenue Code section 401(a)(25). Such assumptions and methods adopted by the board, and any table of adjustment factors established in accordance with the assumptions and methods, shall be incorporated herein by reference.

3. "Alternative retirement system" means the teachers' fund for retirement, the highway patrolmen's retirement system, and the teachers' insurance and annuity association of America.

4. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.

5. "Board" means the board of trustees for the public employees retirement system.

6. "Bonus" means cash compensation for services performed in addition to base salary excluding commission and shift differentials. Bonus does not include lump sum payments of sick leave provided under North Dakota Century Code section 54-06-14 or lump sum payments of annual leave or vacation pay.

~~6.~~7. "Claim" means the right to receive a monthly retirement allowance, the receiving of a retirement allowance, or the receiving of a disability benefit.

~~7.~~8. "Continuously employed" means any period of employment uninterrupted by voluntary or involuntary termination or discharge. A member who has taken a leave of absence approved by the member's employer, not to exceed a year unless approved by the executive director, and returns to employment shall be regarded as continuously employed for the period.

~~8.~~9. "Contribution" means the payment into the fund as a percentage of the salary of a member.

~~9.~~10. "Correctional officer" means a person who has completed a correctional officer course approved or certified by the North Dakota department of corrections and rehabilitation and is employed by a correctional facility as defined in North Dakota Century Code chapter 12-44.1.

~~10.~~11. "County judge" means a judge who was elected pursuant to North Dakota Century Code section 27-07.1-01 or an individual holding the position of county judge, county justice, or judge of county court prior to the general election in 1982, who meets all the eligibility requirements established under North Dakota Century Code chapter 54-52.

~~11.~~12. "Interruption of employment" is when an individual is inducted (enlists or is ordered or called to active duty into the armed forces of the United States) and leaves an employment position with a state agency or political subdivision, other than a temporary position. The individual must have left employment to enter active duty and must make application in accordance with the Uniformed Services Employment and Reemployment Rights Act.

~~12.~~13. "Leave of absence" means the period of time up to one year for which an individual may be absent from covered employment without being terminated. At the executive director's discretion, the leave of absence may be extended not to exceed two years, or indefinitely if the leave of absence is due to interruption of employment.

~~13.~~14. "Medical consultant" means a person or committee appointed by the board of the North Dakota public employees retirement system to evaluate medical information submitted in relation to disability applications, recertifications, and rehabilitation programs or other such duties as assigned by the board.

~~14.~~15. "Normal retirement age", except for members of the national guard and law enforcement, means age sixty-five unless otherwise provided. For members of the national guard and law enforcement, normal retirement age means age fifty-five, unless otherwise provided.

~~15.~~16. "Office" means the administrative office of the public employees retirement system.

~~16.~~17. "Participating employer" means an employer who contributes to the North Dakota public employees retirement system. For confidentiality purposes, "participating employer" means the person or group of persons with the ultimate authority over personnel decisions within the agency or political subdivision with which the member is employed or the person's or group's official designee.

~~17.~~18. "Pay status" means a member is receiving a retirement allowance from the fund.

~~18.~~19. "Permanent and total disability" for members of the main retirement system and the national guard/law enforcement retirement plan means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be

expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months. For members of the judge's retirement plan, "permanent and total disability" is determined pursuant to subdivision e of subsection 3 of section 54-52-17 of the North Dakota Century Code.

~~19.~~20. "Plan administrator" means the executive director of the North Dakota public employees retirement system or such other person or committee as may be appointed by the board of the North Dakota public employees retirement system from time to time.

~~20.~~21. "Plan year" means the twelve consecutive months commencing July first of the calendar year and ending June thirtieth of the subsequent calendar year.

~~21.~~22. "Prior plan" means the state employees' retirement system which existed from July 1, 1966, to June 30, 1977.

~~22.~~23. "Regularly funded" means a legislatively authorized full-time equivalent (FTE) position for state agencies. For all governmental units other than state agencies, regularly funded means a similar designation by the unit's governing board which is created through the regular budgeting process and receives traditional employee benefits such as sick leave and annual leave.

~~23.~~24. "Retiree" means an individual receiving a monthly retirement allowance pursuant to chapter 54-52.

~~24.~~25. "Retirement allowance" means a reoccurring, periodic benefit from an eligible employer-sponsored retirement plan as approved by the board.

~~25.~~26. "Service credit" means increments of time to be used in the calculation of retirement benefits. Service credit may be earned as stated in section 71-02-03-01 or may be purchased or repurchased according to section 71-02-03-02.1.

~~26.~~27. "Substantial gainful activity" is to be based upon the totality of the circumstances including consideration of an individual's training, education, and experience; an individual's potential for earning at least seventy percent of the individual's predisability earnings; and other items deemed significant on a case-by-case basis. Eligibility is based on an individual's employability and not actual employment status.

~~27.~~28. "Termination of employment" for the purposes of determination for eligibility for benefit payments means a severance of employment by not being on the payroll of a covered employer for a minimum of one month. Approved leave of absence or if reemployed by any covered employer prior to receiving a lump sum distribution of the member's account balance does not constitute termination of employment.

~~28.~~29. "Termination of participation" means termination of eligibility to participate in the retirement plan.

History: Amended effective September 1, 1982; November 1, 1990; September 1, 1991; January 1, 1992; September 1, 1992; June 1, 1993; July 1, 1994; June 1, 1996; July 1, 2000; April 1, 2002; May 1, 2004; July 1, 2006; July 1, 2010; April 1, 2014; April 1, 2016; July 1, 2018.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52

CHAPTER 71-02-02

71-02-02-01. Membership - General rule.

When an eligible employee becomes a member of the public employees retirement system, the following requirements apply:

1. A temporary employee must submit a completed participation agreement within six months of the date of hire as a temporary employee or within six months of a change in status from a permanent to temporary position. If no application is made and filed with the office, an irrevocable waiver of participation will occur for as long as the employee is in temporary status.

2. Contributions for temporary employees must be submitted no later than the sixth working day of the month for the previous month's salary.

3. Delinquent payments of over thirty days, for reasons other than leave of absence or seasonal employment, will result in termination of eligibility to participate as a temporary member.

4. Upon taking a refund, future participation as a temporary member is waived.

5. A member may not ~~participate~~contribute concurrently to the plan within any given month as both a permanent and a temporary member. Permanent employment has precedence.

6. Elected officials of participating counties and elected state officials, at their individual option, must enroll or waive participation in writing within six months of taking office or beginning a new term. If no application is made and filed with the office, an irrevocable waiver of participation will occur until the official makes application within six months from the start of a new term.

History: Amended effective September 1, 1982; November 1, 1990; September 1, 1992; June 1, 1996; July 1, 1998; May 1, 2004; July 1, 2006; April 1, 2016; July 1, 2018.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52-01, 54-52-02.9, 54-52-05

71-02-03-02.5. Costs.

If purchasing under North Dakota Century Code section 54-52-02.6 or subdivision d of subsection 1 of North Dakota Century Code section 54-52-17.4, the cost will be the higher of the amount refunded to the member plus interest at the actuarial rate of return or the actuarial cost to provide the credit. All other types of service purchases must be actuarially determined. An actuarial cost must be calculated by applying actuarial factors to the amount of retirement and retiree health insurance credit being purchased by the member. The member's current age, average salary, ~~and~~ current credited service, and actuarial factors on record and in effect with the North Dakota public employees retirement system in the month in which the member's written request is ~~received~~processed by the office must be used in the cost calculation. A member's written request must be processed by the office within sixty days of receipt. The amount of retirement and retiree health insurance credit being purchased must be calculated using the benefit formulas in place at the time the written request ~~is received~~ from the member is processed by the office. When calculating the cost, enhancements to the benefit formula must be considered to be in place at the time the law is signed by the governor.

The member's average salary shall be calculated as follows:

1. For members working full time with more than twelve months of service credit, by using the calculation found in subsection 2 of North Dakota Century Code section 54-52-17.

2. For members working full time with less than twelve months of service credit, by using the calculation found in subsection 2 of North Dakota Century Code section 54-52-17, but disregarding any month in which the member was paid less than a full-month salary. A full-month salary is the compensation the member and the member's employer agreed the member would be paid for working a full month.

3. For members who have not yet received a full-month salary, the member's average salary shall equal the member's full-month salary, as defined in subsection 2.

4. For members working part time, by using the applicable calculations found in subsections 1 and 2, but using a monthly salary equal to the equivalent of the salary the member would have received if the member was working full time.

The retirement board must adopt actuarial assumptions necessary to determine the actuarial factors for the cost calculation. The assumptions must be reviewed concurrently with the assumptions for the retirement program.

Upon receipt of the written request from the member, and all required documentation, a written cost confirmation must be prepared and mailed to the member. The cost stated in the confirmation letter is valid for a period of ninety days from the date of the letter unless the contributor terminates employment with a participating employer. If the contributor terminates employment, then the cost stated in the confirmation letter is valid only until the earlier of the end of the ninety-day period or the fifteenth day of the month following the month of termination.

History: Effective July 1, 1994; amended effective June 1, 1996; July 1, 2000; April 1, 2002; May 1, 2004; July 1, 2006; July 1, 2018.
General Authority: NDCC 54-52-02.6, 54-52-04, 54-52-17, 54-52-17.2, 54-52-17.4
Law Implemented: NDCC 54-52-02.6, 54-52-17, 54-52-17.2, 54-52-17.4

71-02-03-06. Conversion of sick leave.

To convert unused sick leave to service credit, the member must ~~notify~~submit an application to the office, ~~in writing, of~~no later than the end of the month in which the member is no longer eligible to accrue the ~~amount of unused~~ sick leave ~~to be converted and the~~hours, unless otherwise approved by

the executive director. The member's employer must confirm the member's unused balance of accumulated sick leave as of the date the member ~~terminates employment~~is no longer eligible to accrue sick leave hours. For members transferring from one participating employer to another participating employer without terminating eligible employment, the public employees retirement system will record unused sick leave of a participating member if the new employer certifies that it will not transfer that leave. The certification must include documentation from the previous employer detailing the number of hours of sick leave. The public employees retirement system must receive the certification within sixty days after the member leaves employment with the former employer. One month of service credit must be awarded for each one hundred seventy-three and three-tenths hours of unused accumulated sick leave. The employer and employee contributions rates used to calculate the cost must be the rate of the retirement program of the member at termination.

1. Aftertax payments may be accepted from the member as early as six months prior to ~~termination~~when the member is no longer eligible to accrue sick leave hours, if the following requirements are met:

   a. A notice of ~~termination or application for monthly benefits form is on file with~~employment change has been provided to the public employees retirement system.

   b. A written certification by the member's employer, as to the member's unused balance of accumulated sick leave as of the date the member wishes to begin payment, is on file with the public employees retirement system.

   c. ~~At termination, the~~The sick leave conversion payment must be recalculated using the member's unused balance of accumulated sick leave confirmed by the member's employer, and the member's final average salary as of that date. If there is a difference between the sick leave conversion payment amount and the amount the member has paid, any overpayment must be refunded to the member and any underpayment must be collected from the member by the fifteenth of the month following the month ~~of the member's date of termination~~the member is no longer eligible to accrue sick leave hours.

2. The member's record must be updated with the additional service credit once payment is made in full ~~and the member has terminated employment~~.

3. Pretax rollover or transfer payments may be accepted from the member as early as sixty days prior to ~~termination~~when the member is no longer eligible to accrue sick leave hours, if the following requirements are met:

   a. A notice of ~~termination or application for monthly benefits form is on file with~~employment change has been provided to the public employees retirement system.

   b. A written certification by the member's employer, as to the member's projected unused balance of accumulated sick leave no sooner than sixty days prior to the date ~~of termination~~the member is no longer eligible to accrue sick leave hours, is on file with the public employees retirement system. This certification must also include a certification by the employer of the projected salaries to be reported to the public employees retirement system during the final months of employment.

   c. ~~At termination, the~~The sick leave conversion payment must be recalculated using the member's unused balance of accumulated sick leave confirmed by the member's employer and the member's final average salary as of ~~that~~the date the member is no longer eligible to accrue sick leave hours. If there is a difference between the sick leave balance or conversion payment amount and the amount the member has paid, then only the amount of sick leave available as of the ~~termination~~ date the member is no longer eligible to accrue sick leave hours will be added to the member's record. The member account balance will be credited with the full amount of funds from the rollover or transfer.

d. If an underpayment has occurred, then the remaining amount must be collected from the member by the fifteenth of the month following the month ~~of~~ the ~~member's date of termination~~member is no longer eligible to accrue sick leave hours.

e. The retiree health credit portion must be paid as a personal aftertax payment.

4. The member's record must be updated with the additional service credit once payment is made ~~and the member has terminated employment~~in full.

History: Effective June 1, 1996; amended effective April 1, 2002; May 1, 2004; July 1, 2006; April 1, 2008; July 1, 2018.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52-27

71-02-04-03. Payment date - Retirement benefits.

Except for retirement options provided in section 71-02-04-02, a member's retirement benefit shall commence on the first day of the month which follows the member's eligibility for the benefit and which is at least thirty days after the date on which the member filed an application with the office. Notwithstanding any other provision in this article, benefits must begin no later than April first of the calendar year after the calendar year in which the member retires or attains the age of seventy and one-half years, whichever is later. If the member is employed but ineligible for active participation in the retirement plan, the member's benefits must begin no later than April first of the calendar year after the calendar year in which the member attains the age of seventy and one-half years. In the absence of a retirement application, benefits shall be paid based on a single life, or normal retirement for judges, payment option. Benefits must be directly deposited into a financial account identified by the member or sent to the member's last-known address. If the benefit checks are returned with no forwarding information, the benefits will remain in the fund, and will be distributed in a lump sum retroactive to the required beginning date upon location of the member. If two consecutive checks issued remain uncashed, future payments will be suspended until the member makes payment arrangements with the office.

History: Amended effective November 1, 1990; July 1, 1994; July 1, 2000; July 1, 2010; July 1, 2018.
General Authority: NDCC 54-52-04, 54-52-17
Law Implemented: NDCC 54-52-17

71-02-04-04.1. Benefit modifications.

A member may elect as provided in section 71-02-04-02 to receive one of the following benefit modifications:

1. **Partial lump sum option.** The partial lump sum option will only be available to members who retire on or after reaching normal retirement date. This option is an irrevocable election ~~and~~ made at initial application for retirement, and is not an option for a subsequent retirement. The payment is equal to twelve monthly payments determined under the single life annuity option. The member is permitted to choose one of the optional forms of payment as defined in section 71-02-04-04 for ongoing benefits. The ongoing benefits will be actuarially reduced to reflect the partial lump sum payment.

2. **Deferred normal retirement option.** The deferred normal retirement option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election ~~and~~ made at initial application for retirement, and is not an option for a subsequent retirement. The payment is in lieu of a lump sum equal to the amount of missed payments, without interest, retroactive to the member's normal retirement date. The member is permitted to choose one of the optional forms of payment as defined in section 71-02-04-04. The ongoing benefits will be actuarially increased to reflect the lump sum.

3. **Graduated benefit option.** The graduated benefit option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election ~~and~~ made at initial application for retirement, and is not an option for a subsequent retirement. The member is permitted to choose one of the optional forms of payment for ongoing benefits as defined in section 71-02-04-04. The ongoing benefits will be actuarially reduced to reflect the election of the graduated benefit option.

History: Effective July 1, 2010; amended effective April 1, 2014; July 1, 2018.
General Authority: NDCC 54-52-04, 54-52-17
Law Implemented: NDCC 54-52-17

71-02-05-06. Determination of disability - Procedures.

1. **Application.**

   a. If the member is unable or unwilling to file a public employees retirement system application for disability retirement, the member's legal representative may file the member's disability application.

   b. For the main system and the national guard and law enforcement system, the application must explain the cause of the disability, the limitations caused by the disability, the treatment being followed, and the effect of the disability on the individual's ability to be engaged in any gainful occupation for which the person is, or could become, reasonably fitted by education, training, or experience. For the judges' retirement plan, the application must explain the cause of the disability, the limitations caused by the disability, the treatment being followed, and the effect of the disability on the individual's ability to mentally or physically fulfill the duties and responsibilities of being a judge. A judge who is determined to be disabled pursuant to subdivision a of subsection 3 of North Dakota Century Code section 27-23-03 shall file an application documenting this determination and the effective date of the disability.

   c. The application must be filed with the public employees retirement system and may not be filed earlier than one hundred twenty days before the expected termination date.

2. **Medical consultant.**

   a. The board may retain a medical consultant to evaluate and make recommendations on disability retirement applications.

   b. The medical consultant shall review all medical information provided by the applicant.

   c. The medical consultant is responsible to determine eligibility for disability benefits for applicants not approved for social security disability benefits or for judges not approved pursuant to subsection 3 of North Dakota Century Code section 27-23-03 and shall advise the executive director of the decision in writing. Applicants who become eligible for disability benefits under the Social Security Act and who meet the requirements of subdivision h of subsection 3 of North Dakota Century Code section 54-52-17 are eligible for benefits under subdivision e of subsection 4 of North Dakota Century Code section 54-52-17 without submitting further medical information to the medical adviser, but are subject to recertification requirements specified in this chapter. The social security disability award must provide proof that the member's disability was determined during the member's period of eligible employment. In determining eligibility for judges not approved pursuant to the above, the medical director shall work with a review committee composed of one supreme court judge and a district court judge to review the proposed application. In order for the application to be approved, it must have the concurrence of the medical director and at least one judge. The executive director shall appoint two judges to serve on the review committee.

3. **Medical examination.**

   a. The applicant for disability retirement shall provide the medical examination reports as requested by the medical consultant.

   b. The member is liable for any costs incurred by the member in undergoing medical examinations and completing and submitting the necessary medical examination reports,

medical reports, and hospital reports necessary for initial determination of eligibility for benefits.

c. If determined to be eligible for disability benefits, the member must be reimbursed for the cost of medical examinations specifically requested by the medical adviser and the executive director.

4. **Appeal.**

a. If the applicant has terminated employment, the public employees retirement system shall notify the applicant in writing of the decision. If the applicant is determined not to be eligible for disability benefits, the public employees retirement system shall advise the applicant of the appeal procedure. If the applicant is determined eligible for disability benefits, benefits must be paid pursuant to subsection 5.

b. If the applicant has not terminated employment, the applicant must be provided with a preliminary notification of the decision in writing. The preliminary notification remains in effect for a period not to exceed two hundred seventy days. If an applicant does not terminate employment within two hundred seventy days of the date of termination provided on the disability application, the application must be considered to be vacated but the applicant may reapply as provided in subsection 1.

c. The applicant may appeal an adverse determination to the board by providing a written notice of appeal within thirty days of the date that the public employees retirement system mailed the decision.

d. The board shall consider all appeals at regularly scheduled board meetings. The applicant must be notified of the time and date of the meeting and may attend and be represented by legal counsel. The executive director shall provide to the board for its consideration a case history brief that includes membership history, medical examination summary, and the plan administrator's conclusions and recommendations. The board shall make the determination for eligibility at the meeting unless additional evidence or information is needed. The discussion concerning disability applications must be confidential and closed to the general public.

e. If the initial board decision is adverse to the applicant after exhausting the administrative procedure under subdivisions a and b, the applicant may file a request for a formal hearing to be conducted under North Dakota Century Code chapter 28-32. The request for a formal hearing must be filed within thirty days after notice of the initial decision has been mailed or delivered. If an appeal is not filed within the thirty-day period, the initial decision of the board is final. If a request for a formal hearing is timely filed, notice of the hearing must be served at least thirty days prior to the date set for the hearing. The board shall request appointment of an administrative law judge from the office of administrative hearings to conduct the hearing and make recommended findings of fact, conclusions of law, and order. The board shall either accept the administrative law judge's recommended findings of fact, conclusions of law, and order or adopt its own findings of fact, conclusions of law, and order. The applicant may under North Dakota Century Code section 28-32-15 appeal the final decision resulting from this procedure to the district court.

5. **Payment of annuity.** If awarded, the disability annuity is payable on, or retroactive to, the first day of the month following the member's termination from covered employment minus any early retirement benefits that have been paid.

6. **Redetermination and recertification.**

a. A disabled annuitant's eligibility must be recertified eighteen months after the date the first check is issued and thereafter as specified by the medical consultant unless proof of receipt of ongoing social security disability benefits is received. The executive director may waive the necessity for a recertification, based on the recommendation of the medical consultant or upon proof of receipt of ongoing social security disability benefits.

b. The public employees retirement system will send a recertification ~~form~~application and request for a statement of annual earnings by certified mail with return receipt to the disabled annuitant to be completed and sent back to the office. If completed recertification application has not been received by the recertification date set in the recertification request, benefits will be suspended effective the first of the month following that date. If the recertification application is not received within six months of the recertification date set in the recertification request unless an alternative date has been approved by the executive director, the member will no longer be eligible to receive disability benefits. Benefits suspended within six months of the recertification date set in the recertification request will be reinstated the first of the month following recertification by the medical consultant, or upon proof of receipt of ongoing social security disability benefits, unless an alternative date has been approved by the executive director. The regular accrued disability benefits will commence with a lump sum equal to the amount of missed payments, without interest, retroactive to the first day of the month benefits were suspended, unless otherwise approved by the ~~North Dakota public employees retirement system~~ board.

c. The medical consultant may require the disabled annuitant to be reexamined by a doctor. The submission of medical reports by the annuitant, and the review of those reports by the board's medical consultant, may satisfy the reexamination requirement. Upon recertification, the disabled annuitant must be reimbursed for the cost of the required reexamination if deemed necessary by the medical consultant and the executive director.

d. ~~The~~When the member has not provided proof of receipt of ongoing social security disability benefits, the medical consultant will make the recertification decision. The executive director may require additional recertifications, if the facts warrant this action. The decision may be appealed to the board within ninety days of receiving the written recertification decision.

e. Benefit payments must be suspended immediately upon notice received from the medical consultant that the annuitant does not meet recertification requirements. The executive director shall notify the annuitant of the suspension of benefits by certified mail and shall reinstate benefits back to date of suspension if the annuitant is subsequently found to meet recertification requirements.

f. If it is determined that the disability annuitant was not eligible for benefits during any time period when benefits were provided, the executive director may do all things necessary to recover the erroneously paid benefits.

History: Effective January 1, 1992; amended effective July 1, 1994; June 1, 1996; April 1, 2002; May 1, 2004; July 1, 2006; April 1, 2016; July 1, 2018.
General Authority: NDCC 54-52-04, 54-52-17
Law Implemented: NDCC 54-52-17, 54-52-26

CHAPTER 71-02-06

71-02-06-01. Conditions for return.

~~1.~~ The accumulated contributions of a member who terminates permanent employment:

~~a.~~1. Before accumulating three years of service credit and whose account balance is less than one thousand dollars shall be automatically refunded unless the member elects to remain in an inactive status.

~~b.~~2. After accumulating three years of service credit shall be refunded upon application filed with the executive director.

~~c.~~3. The termination date for purposes of processing an application for refund or rollover must be the last date for which a member receives salary except for a member who is on an approved leave of absence. For members who are paid salary in any month following actual separation from employment if the salary is received after the normal processing date, the termination date for purposes of processing the application must be the same date as the date that the last paycheck was issued as salary.

~~2. Retirement contributions must be returned if a membership enrollment application form has not been filed with the office. Contributions will be returned until proper membership enrollment forms have been filed.~~

History: Amended effective November 1, 1990; June 1, 1996; July 1, 1998; July 1, 2000; May 1, 2004; July 1, 2010; July 1, 2018.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52-06, 54-52-17

71-02-06-04. Adjustment for bonuses, profit sharing, and contributions paid in a month other than month earned.

Adjustments for the following must be made for all members:

1. Participating employers shall report bonuses or profit-sharing amounts paid when remitting the contribution associated with the bonus. Recruitment and retention bonuses under North Dakota Century Code section 54-06-31 are not eligible for consideration as salary and no contributions associated with those types of bonuses shall be submitted.

2. Bonuses or profit-sharing amounts paid by a participating employer other than pursuant to North Dakota Century Code section 54-06-31 will be retroactively prorated ~~equal to the actual compensation paid~~ over the ~~term of the intended bonus or profit-sharing~~applicable prior twelve month period. Bonuses or profit-sharing amounts may not be submitted to the public employees retirement system for future months.

3. Upon receiving notice~~,~~ of contributions received in a month other than the month earned, the office will ~~be assigned~~assign contributions to the appropriate month.

History: Effective June 1, 1993; amended effective June 1, 1996; July 1, 1998; July 1, 2000; April 1, 2002; April 1, 2008; July 1, 2018.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52-05, 54-52-06

CHAPTER 71-02-07

71-02-07-02. Return to service - Retired member.

The benefits of a retired member who returns to permanent employment shall be suspended without interest accruing on the suspended account, except as provided in subsection 1 of North Dakota Century Code section 54-52-05. Upon subsequent termination and retirement, the member is required to select the same benefit option as the option selected at initial retirement. The member's total benefit upon subsequent retirement must equal the original benefit plus the calculated benefit for the return to work period. The member's benefit attributable to any return to work period shall be ~~recalculated~~based upon service and earnings attributable to the return to work period only and be calculated as follows:

1. The member's calculated benefit shall be based on the benefit provisions in effect at ~~final~~subsequent retirement and shall include the member's and spouse's ages, salary earned during the period of reemployment, ~~and~~ total service credits earned ~~before and~~ after reemployment, ~~adjusted to take account of benefit payments received prior to reemployment. If a different option is selected at the second retirement date, the member and office will submit information as required to make an actuarial determination of the elected benefit and the related payment of such~~and actuarial factors in effect at subsequent retirement.

2. If a member dies during subsequent employment, the member's initial retirement benefit option election will apply and the date of death will be considered the subsequent retirement date. ~~The member's benefit shall be based on the benefit provisions in effect at final retirement and shall include the member's and spouse's ages, salary earned during the period of reemployment, and total service credits earned before and after reemployment, adjusted to take account of benefit payments received prior to reemployment.~~

3. If a member's spouse dies during the subsequent employment of the member, section 71-02-04-04 applies to the member's initial and subsequent retirement benefit calculation.

History: Amended effective November 1, 1990; July 1, 1998; May 1, 2004; July 1, 2006; July 1, 2010; July 1, 2018.
General Authority: NDCC 54-52-04, 54-52-17
Law Implemented: NDCC 54-52-17

71-02-11-04. Payment.

The cost for purchase of eligible military service in the North Dakota public employees retirement system and the North Dakota highway patrolmen's retirement system is as follows:

1. The cost for any required employee contributions to be paid by the member may be paid in a lump sum or in installments pursuant to the rules established for purchase or repurchase payment under subsection 1, 2, or 3 of section 71-02-03-02.2. If no payments have been made, no credit will be awarded for benefit calculation purposes. To prevent any delay in issuing the employee's first retirement check, purchase must be completed at least thirty days prior to retirement date.

2. The employer cost will be assessed to the member's most recent participating employer. Upon being billed by the North Dakota public employees retirement system, the participating employer will have thirty days in which to make payment in full. If, after sixty days, the employer has not made payment in full, a civil penalty on fifty dollars will be assessed, and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date they became due, penalty and interest to be paid on delinquent contributions may be waived.

History: Effective September 1, 1991; amended effective May 1, 2004; July 1, 2006; July 1, 2010; April 1, 2012; July 1, 2018.
General Authority: NDCC 54-52-04
Law Implemented: NDCC 54-52-17.4(5), 54-52-17.14; 38 USC 4318(a)(2)(A), 38 USC 4318(a)(2)(B), 38 USC 4318(b)(2); 20 CFR 1002.259-262

71-03-03-05. Special enrollment for certain qualifying events.

An eligible employee, retiree, or surviving spouse who elects to take a periodic distribution from the defined contribution retirement plan or a monthly retirement benefit from the North Dakota public employees retirement system, North Dakota highway patrolmen's retirement system, the retirement system established by job service North Dakota, the teachers' fund for retirement, or teachers' insurance and annuity association of America - college retirement equities fund, or retirees who have accepted a retirement allowance from a participating political subdivision's retirement plan and provide verification of distribution are eligible for coverage with the health, dental, vision, or prescription drug insurance program.

1. The employee, retiree, or surviving spouse must submit application for coverage within thirty-one days from one of the following qualifying events:

   a. The month in which the eligible employee or retiree turns age sixty-five or becomes eligible for ~~medicare~~Medicare.

   b. The month in which the eligible employee's or retiree's spouse turns age sixty-five or becomes eligible for ~~medicare~~Medicare.

   c. The month in which the eligible employee terminates employment.

   d. The month in which the eligible retiree or surviving spouse receives the first monthly retirement benefit from one of the eligible retirement systems outlined above.

   e. The month in which an eligible employee or retiree who is covered through a spouse's plan becomes ineligible for the spouse's plan due to divorce, death, loss of employment, reduction in hours or other events which may cause loss of coverage as determined by the board.

   f. The month in which the eligible employee or retiree is no longer eligible for employer-sponsored insurance, including coverage provided under the Consolidated Omnibus Budget Reconciliation Act.

2. Coverage will become effective on the first day of the month following the month in which the qualifying event occurred or under subdivision a or b of subsection 1 may become effective the month in which eligibility for Medicare occurs. If an application is not submitted within thirty-one days of a qualifying event, the eligible individual must be considered to have waived coverage and may not be enrolled unless the individual meets the criteria of another qualifying event. Upon a showing of good cause, the executive director may waive the thirty-one day application requirement.

3. Other individuals eligible for the health, dental, vision, or prescription drug insurance plan include a surviving spouse who is not receiving a qualified monthly retirement benefit from one of the eligible retirement systems outlined above, but who was a covered dependent on the eligible retiree's health, dental, vision, or prescription drug insurance plan at the time of the eligible retiree's death, if there is no lapse in coverage.

4. Individuals not eligible for the health, dental, vision, or prescription drug insurance plan include:

   a. A former employee who received a refund of the employee's retirement account, including individuals in the defined contribution plan who take a cash withdrawal of the employee's account, roll their account into another qualified plan, or use the moneys in their account to purchase an annuity.

b. A nonspouse beneficiary (eligible for Consolidated Omnibus Budget Reconciliation Act).

c. A deferred retiree or surviving spouse between the time in which the retiree or surviving spouse's eligibility for the Consolidated Omnibus Budget Reconciliation Act (if eligible) ends and the month in which the eligible retiree or surviving spouse receives the first monthly retirement benefit from one of the eligible retirement systems.

d. A formerly deferred retiree who received a refund of the retiree's retirement account.

e. A surviving spouse of a nonvested employee eligible for the Consolidated Omnibus Budget Reconciliation Act.

f. A surviving spouse of a former employee who received a refund of the employee's retirement account.

g. A former participating member of the defined contribution retirement program who would not qualify for one of the retirement dates set forth in subsection 3 of North Dakota Century Code section 54-52-17 if that employee was a member of the defined benefit retirement plan, unless eligible under the Consolidated Omnibus Budget Reconciliation Act, and then only for the required duration of eligibility under the Act.

h. For the purposes of the medical and prescription drug plan, employees who first retire after July 1, 2015, and are not eligible for medicare upon their retirement and completion of any period of eligibility under the Consolidated Omnibus Budget Reconciliation Act, until such time as they or their spouse become eligible for medicare.

History: Effective October 1, 1986; amended effective November 1, 1990; July 1, 1994; June 1, 1996; July 1, 1998; July 1, 2000; May 1, 2004; April 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 54-52.1-08
Law Implemented: NDCC 54-52.1-02, 54-52.1-03, 54-52.1-03.1; Pub. L. 99-272; 100 Stat. 222; 26 USC 162 et seq.

CHAPTER 71-03-05

71-03-05-02. Retiree billing.

Retirees receiving a monthly retirement benefit from the board in a sufficient amount to pay premium will have the total monthly premium deducted from their benefit check. ~~Retirees not paying a premium from their benefit check will receive a monthly billing.~~

History: Effective October 1, 1986; amended effective November 1, 1990; April 1, 2008; July 1, 2018.
General Authority: NDCC 54-52.1-08
Law Implemented: NDCC 54-52.1-03

CHAPTER 71-06-01
RETIREE HEALTH INSURANCE CREDIT

Section

71-06-01-01 Eligibility for Retiree Health Insurance Credit Applied to Premiums for Annuitants and Surviving Spouses Under the North Dakota Public Employees Retirement System, the North Dakota Highway Patrolmen's Retirement System, the Retired Judges Under North Dakota Century Code Chapter 27-17, Annuitants of the Job Service Retirement Program, and Former Participating Members of the Defined Contribution Retirement Plan Receiving Periodic Distributions [Repealed]

71-06-01-02 Calculation of Retiree Health Insurance Credit

71-06-01-03 For Retirees Receiving More Than One Benefit Entitled to Retiree Health Insurance Credit

71-06-01-04 Employer Paid Health Premiums [Repealed]

71-06-01-05 Member Contributions

71-06-01-06 Erroneous Crediting of the Retiree Health Insurance Credit [Repealed]

71-06-01-06.1 Retroactive Payment of the Retiree Health Insurance Credit [Repealed]

71-06-01-07 Optional Benefits

71-06-01-08 Vesting in Retiree Health Credit for Members of the Defined Contribution Retirement Plan

71-06-01-09 Payment - Retiree Health Insurance Credit Benefits

71-06-01-09. Payment - Retiree health insurance credit benefits.

Eligible retiree health insurance credit benefits that have been substantiated by the office must be directly deposited into a financial account identified by the member or sent to the member's last-known address. If the benefit checks are returned with no forwarding information, the benefits will remain in the fund, and will be distributed in a lump sum upon location of the member. If two consecutive checks issued remain uncashed, future payments will be suspended until the member makes payment arrangements with the office.

History: Effective July 1, 2018.
General Authority: NDCC 54-52.1-03.2(b)
Law Implemented: NDCC 54-52.1-03.3

TITLE 74

SEED COMMISSION

JULY 2018

ARTICLE 74-03
SEED CERTIFICATION STANDARDS

Chapter	
74-03-00.1	Definitions
74-03-01	General Seed Certification Requirements
74-03-02	Specific Crop Requirements - Small Grains ~~and Flax~~
74-03-03	Specific Crop Requirements - Alfalfa (Nonhybrid) [Repealed]
74-03-04	Specific Crop Requirements - Birdsfoot Trefoil [Repealed]
74-03-05	Specific Crop Requirements - Red Clover [Repealed]
74-03-06	Specific Crop Requirements - Sweetclover [Repealed]
74-03-07	Specific Crop Requirements - Grasses
74-03-07.1	Specific Crop Requirements - Buckwheat
74-03-08	Specific Crop Requirements - Millet - Self-Pollinating
74-03-09	Specific Crop Requirements - Mustard, Crambe, and Rape (Nonhybrid)
74-03-09.1	Specific Crop Requirements - Hybrid Canola and Rapeseed
74-03-10	Specific Crop Requirements - Safflower
74-03-11	Specific Crop Requirements - Sunflower
74-03-12	Specific Crop Requirements - Soybeans, Chickpeas, and Lentils
74-03-12.1	Specific Crop Requirements - Field Peas
74-03-13	Specific Crop Requirements - Dry Field Beans
74-03-14	Specific Crop Requirements - Hybrid Wheat
74-03-15	Specific Crop Requirements - Flax
74-03-16	Specific Crop Requirements - Industrial Hemp

CHAPTER 74-03-01

74-03-01-01. Seed certification in North Dakota.

The certification of seed in North Dakota is a function of the state seed department as outlined in North Dakota Century Code chapter 4.1-53. This chapter applies to all crops, except seed potatoes, which are regulated pursuant to North Dakota Century Code chapter ~~4-10~~4.1-55 and Administrative Code article 74-04, grown for the production of all classes of North Dakota certified seed. If a North Dakota crop is accepted for field inspection and certification for which there are no North Dakota field or seed standards, the latest standards published by the association of official seed certifying agencies for that crop will apply.

History: Amended effective January 2, 2006; July 1, 2007; July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-53-42

74-03-01-06. Seed eligibility.

1. The seed department shall be supplied with satisfactory evidence of the source and class of seed used to plant each crop considered for certification.

2. Eligible seed stocks include breeder's, foundation, registered or, in special cases, approved lots of the certified class. Eligible seed obtained from another person must be accompanied by the official tag or bulk certificate from an approved certifying agency, which will be the documentation of acceptance required for field inspection.

3. Certified seed growers may plant seed from their own fields if the field passed inspection and if the class of seed is eligible to be certified. The grower must provide sufficient evidence to the department to verify eligibility.

4. Certified seed growers may only plant seed from their own field that failed field inspection previously if the field did not fail due to genetic purity, and the grower is the applicant for field inspection. If the field fails inspection a second time for any reason, that seed shall no longer be eligible for ~~the production of certified~~certification.

5. Contract growers may not replant any of the seed produced unless final certification has been completed.

6. Growers should check with the state seed department regarding approved lots of the certified class eligible for recertification.

History: Amended effective May 1, 1986; September 1, 2002; January 2, 2006; July 1, 2010; October 1, 2012; July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-53-42, 4.1-53-44, 4.1-53-45

74-03-01-09. Field inspection.

1. Applications. Applications for field inspection, accompanied by the correct fees, payment of past-due accounts, and proof of seed eligibility, must be received at the state seed department office in Fargo not later than June fifteenth. The penalty fee will apply after that date. Applications for grass seed must be received by May first to avoid late penalty. Applications for hybrid wheat and industrial hemp must be received by June first to avoid late penalty. Applications for millet and buckwheat must be received by July fifteenth to avoid late penalty. Applications for soybeans requiring only a single inspection (preharvest) must be received by August first to avoid late penalty. In case of an emergency or unusual circumstances due to weather or crop conditions, the deadline may be extended at the discretion of the seed commissioner. In such an event, late application penalties may be waived.

2. Information required on application. The application shall be completed by the applicant and returned to the seed department. All questions must be answered completely and correctly. The location of the farm and field, including the legal description, shall be given clearly so that the inspector will be able to find the farm and field readily without waste of time and extra travel. Farm service agency field maps or equivalent must be provided by the applicant. If the seed is the grower's own seed, sufficient evidence must be provided to the department to verify eligibility. If the seed is purchased, an official certified seed tag or bulk certificates must accompany the application.

3. Roguing and spraying fields. Roguing is essential to maintain the purity of varieties and high standards of certified seed. Roguing fields prior to inspection is recommended to remove undesirable plants from fields. Plants that should be removed include off-type plants, other crop plants, prohibited and restricted noxious weeds, and other impurities which may be growing in the field.

Roguing is usually done by pulling off-types or other crop plants or weeds and removing them from the field. In the case of small grain, roguing should be done after heading as foreign plants are seen most easily at this time. In hybrid seed production, fertile off-types and undesirable plants should be removed before pollen is shed. Sterile off-types may be removed any time prior to the final inspection.

Whenever practical and advisable, seed fields should be sprayed with pesticides according to the manufacturer's label to control pests. Growers must follow posting requirements as specified by state and federal agencies responsible for the regulation and use of pesticides.

4. Weeds and diseases.

   a. Prohibited noxious weeds under North Dakota seed laws and rules are leafy spurge, field bindweed (creeping jenny), Canada thistle, perennial sow thistle, Russian knapweed, hoary cress (perennial peppergrass), absinth wormwood, musk thistle, spotted knapweed, and yellow starthistle.

   b. Restricted noxious weeds under North Dakota seed laws and rules are dodder species, hedge bindweed (wild morning glory), wild oats, and quackgrass.

   c. A field may be rejected if it is the field inspector's opinion that the amount and kind of weeds present make it difficult to conduct the inspection, or the field condition is such that the quality of the cleaned seed may be questionable.

   d. Objectionable weed seeds are restricted noxious weeds under North Dakota seed laws and rules and may include some common weeds which cause a specific problem in the conditioning of some individual crops.

   e. Diseases not governed by specific crop standards may be cause for rejection if it is the field inspector's opinion that the quality of the cleaned seed may be affected or if results of tests made on the seed indicate a disease condition which will affect the crop produced from such seed.

5. Cancellation of field inspection. An application may be canceled by the applicant before the field inspection is completed. The application fee minus an administrative fee will be refunded to the applicant. The request for cancellation, however, must reach the state seed department before the inspector arrives in the general locality of the field or before inspection has occurred. Refunds will not be made after the field is inspected or because the field has been rejected.

6. Appeal. Reinspection of rejected fields may be considered, provided the application for appeal allows a reasonable amount of time for reinspection prior to harvest. A fee for reinspection may be assessed.

7. The variety name stated on the application will be standard for inspection when entering the field. Absent compelling visual evidence to the contrary, the variety or selection declared by the applicant will be presumed correct if the documentation provided is valid.

History: Amended effective May 1, 1986; May 1, 1988; December 18, 1989; September 1, 2002; January 2, 2006; July 1, 2007; July 1, 2010; October 1, 2012; July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-53-37, 4.1-53-42, 4.1-53-59

74-03-01-11. Seed conditioning, sampling, and laboratory inspection.

1. **Identification in storage.** Field-inspected seed must be identified at all times. Identification must be traceable to field inspection numbers from the crop year in which the seed was

produced. Conditioned seed in storage must be identified by kind, variety, class, and lot number displayed on the bin or storage container.

2. **Preconditioned sample testing.** To hasten labeling or determine the quality of seed which has passed field inspection prior to conditioning, a representative sample of seed may be submitted to the state seed department for the purpose of germination and disease testing. The sample should be cleaned on a small mill or hand sieve to approximate as nearly as possible the quality of the entire lot after conditioning.

   Results of germination and disease tests conducted on preconditioned samples may be used for final certification purposes. A labeler may request new tests for labeling purposes after the seed lot is conditioned. Fragile crops such as soybeans, field beans, lentils, chickpeas, and field peas must be tested for germination after the final conditioning of the seed lot to assure correctness of label claims. The labeler is responsible in all cases for information stated on seed labels.

3. **Conditioning.** All field-inspected seed which is to be labeled must be conditioned and must meet the minimum seed standards for the crop and class. Field-inspected seed may be conditioned either by the grower or by an approved seed conditioner.

   a. Conditioning by seed grower.

      (1) A seed grower does not need an approved conditioning facility permit if the grower conditions the grower's own seed on the grower's premises with the grower's equipment.

      (2) The seed grower must complete a sampler's report in its entirety, attach the report to a two-pound [.907-kilogram] sample that is representative of the entire seed ~~log~~lot, and deliver to the state seed department for analysis.

   b. Conditioning by an approved facility.

      (1) To be eligible for final certification, field-inspected seed shall be conditioned by a facility approved by the seed department. Seed conditioned at an unapproved facility will be ineligible for final certification.

      (2) If ownership of the seed lot is transferred to a different individual or entity, the grower must complete and sign a grower's declaration. Transfer of ownership of field-inspected seed is limited to an approved conditioner or bulk retailer unless the transfer has been approved by the commissioner.

      (3) While conditioning, the seed lot must be sampled at regular intervals by an authorized sampler~~;~~. The sample and completed sampler's report must be submitted to the state seed department for analysis.

4. **Sampling procedures.** Representative samples of seed for testing and analysis must be collected during or after conditioning in accordance with sampling procedures outlined in the current association of official seed certifying agencies operational procedures.

   a. All seed lots eligible for final certification shall be sampled during conditioning as follows:

      (1) Portions of conditioned seed may be drawn by hand as seed is conditioned to form a composite, representative sample for a seed lot; and

      (2) Automatic mechanical devices may be used to continually or intermittently draw representative samples as a seed lot is conditioned.

b. Specific instructions to samplers are found on the reverse side of the samplers report.

5. **Maximum lot size and numbering.**

   a. The maximum lot size for bagged seed is five thousand bushels [17619.54 dekaliters] except for small seeded legumes and grasses which is twenty-two thousand five hundred pounds [10000 kilograms]. Bulk seed lots do not have a maximum size limit except bin capacity. Each bin is considered a separate seed lot. For all crops, one sample for each lot is required. The entire lot must be certified at the time final certification is completed.

   b. The lot number shall be designated by the labeler. The lot number of the seed planted may not be used as the new lot number for the seed being certified during the current crop year.

6. **Commingling (mixing) of inspected seed fields.** Seed of the same kind and variety from different fields that pass field inspection may be commingled if the seed is of the same class and general quality. If seed of different classes is commingled, the seed becomes eligible for the lowest class only.

7. **Commingling carryover certified seed lots.** Carryover seed from certified lots may be commingled if the seed is of the same variety, class, and general quality. If seed of different classes is commingled, the seed becomes eligible for the lowest class only. A new germination test is required for labeling. Germination tests should be done on each lot prior to commingling to ensure none of the lots have gone out of condition.

8. The state seed department may resample any lot of seed before final certification or after the seed is labeled.

9. **Official samples.** At the request of a customer, an official sample may be collected by a representative of the seed department, with expenses incurred by the customer. The seed department shall determine the appropriate collection method and sample size. Sampling bulk seed in bins requires that a minimal amount of seed is withdrawn from the bin. The amount shall be determined by the quantity of seed in the lot, but shall be no less than five percent of the total lot size. Test results from official samples shall supersede all previous test results and shall be final.

10. **Laboratory analysis.**

    a. All laboratory testing shall be done by qualified personnel of the state seed department. Analysis and tests of seed samples and definition of analysis terms shall be in accordance with the rules of the association of official seed analysts (AOSA). In certain cases when time constraints are critical to the efficient movement of certified seed, the commissioner may accept germination or other test results from an approved laboratory, through the certification agency of the state of origin of the seed.

    b. If more than one sample of seed from the same lot is tested without additional conditioning, an average shall be taken of all purity tests conducted. Results from the most recent germination or disease test shall be used as the final result.

    c. Seed from certain classes or kinds, or both, may be subject to variety identification analysis at the discretion of the department, with testing fees payable by the grower or labeler.

History: Amended effective May 1, 1986; May 1, 1988; December 18, 1989; August 1, 1991; September 1, 2002; January 2, 2006; July 1, 2007; July 1, 2010; October 1, 2012; July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-53-46

74-03-01-16. Approved conditioners.

Any seed conditioner may be designated as an "approved conditioner" to condition field-inspected seed for final certification if, after inspection, it is the state seed department inspector's opinion that the facility is properly managed and equipped to maintain genetic purity and varietal identity of each seed lot. A separate inspection and permit is required for each fixed facility or mobile conditioning unit. The managers and the designated samplers in these facilities are under agreement to handle all seed and seed records and to draw representative samples of all seed lots for certification according to the certification rules and regulations.

1. Approved conditioners of small grains are required to have the following operational equipment capable of: (1) length grading - either a disc separator or indent cylinder or combination machine which removes long and short fractions and (2) width grading - either an air screen machine or precision graders with aspiration in line.

2. The commissioner may approve specialized equipment and facilities utilized for the purpose ~~or~~of seed conditioning, repackaging, treating, or inoculating certified seed.

History: Amended effective May 1, 1986; December 18, 1989; September 1, 2002; July 1, 2010; October 1, 2012; July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-53-42, 4.1-53-46

74-03-01-17. Interagency certification.

Interagency certification is a procedure established to maintain certification eligibility of seed originating in another state.

1. **Field inspected in another state and transferred to North Dakota for final certification.**

   a. North Dakota labelers may purchase seed that passed field inspection in another state and complete final certification and labeling in North Dakota. A certificate of transfer from the state in which the seed originated must be submitted to the state seed department to verify eligibility.

   b. The labeler is responsible for completing final certification. If conditioning is necessary, a representative sample must be submitted to the state seed department along with a completed sampler's report and a copy of the certificate of transfer. The seed shall meet North Dakota seed standards for certification.

   c. Interagency certification labels will be issued by the North Dakota state seed department.

2. **Field inspected in North Dakota and transferred to another state for final certification.**

   a. A seed producer may transfer seed that passed field inspection in North Dakota to a purchaser in another state with approval from the state seed department. The producer must submit a completed certificate of transfer to the state seed department verifying eligibility of the seed. Once approved, the state seed department will forward copies to the purchaser and the official certification agency of the state where the seed is destined.

   b. The purchaser is responsible for completing the requirements for certification with the certification agency.

3. **Certified in another state and transferred to North Dakota for relabeling.**

   a. Seed that has been previously certified and labeled by an official certifying agency from another state may be reconditioned, rebagged, and relabeled in North Dakota.

b. When the seed is reconditioned or rebagged, a new sample must be submitted to the state seed department for analysis. The North Dakota labeler must submit a certification label from the state ~~or~~of origin as proof of eligibility along with a completed sampler's report.

c. New interagency certification labels will be issued by the state seed department.

Interagency seed lots not meeting North Dakota certification standards may require resampling or retesting to ensure compliance with North Dakota certification standards.

History: Amended effective May 1, 1986; September 1, 2002; January 2, 2006; October 1, 2012; July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-53-13, 4.1-53-42

CHAPTER 74-03-02
SPECIFIC CROP REQUIREMENTS - SMALL GRAINS ~~AND FLAX~~

Section
74-03-02-01 Land Requirements
74-03-02-02 Field Inspection
74-03-02-03 Field Standards
74-03-02-04 Seed Standards (Wheat - Oats - Barley - Rye - Triticale)
74-03-02-05 Seed Standards (Flax) [Repealed]

74-03-02-01. Land requirements.

A crop of small grain ~~or flax~~ will not be eligible for certification if planted on land on which the same kind was grown the year previous unless the previous crop was the same variety and was inspected for certification. A crop of winter wheat may be planted on a field that previously produced spring wheat. Foundation or registered class fields of durum will not be eligible for certification if planted on land on which spring wheat was planted either of the two previous years.

History: Amended effective May 1, 1986; January 2, 2006; July 1, 2010; July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-02-02. Field inspection.

All field inspection of small grain ~~and flax~~ will be made after the crop is fully headed ~~or in the case of flax in bloom or in the boll stage~~. A field harvested before inspection will not be eligible for certification.

History: Amended effective January 2, 2006; July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-02-03. Field standards.

1. **Isolation.**

   a. Prior to inspection, the field must be isolated from inseparable crops by a fence row, natural boundary, or by a strip at least five feet [1.52 meters] wide which is either mowed, sprayed, or uncropped.

   b. All rye fields producing certified seed must be isolated by at least six hundred sixty feet [201.17 meters] from rye fields of any other variety or fields of the same variety that do not meet the varietal purity requirements for certification.

2. **Specific field standards(wheat - barley - oats - rye - triticale).**

	Maximum Tolerance		
Factor	Foundation	Registered	Certified
Other varieties *	1:10,000	1:5,000	1:2,000
Inseparable other crops	1:30,000	1:10,000	1:5,000
Prohibited noxious weeds **	none	none	none

*Other varieties include plants that can be differentiated from the variety being inspected, but shall not include variants which are characteristic of the variety.

**The tolerance for prohibited or objectionable weeds, or both, in the field will be determined by the inspector.

~~3. **Specific field standards (flax).**~~

		~~Maximum Tolerance~~	
~~Factor~~	~~Foundation~~	~~Registered~~	~~Certified~~
~~Other varieties *~~	~~1:10,000~~	~~1:5,000~~	~~1:2,000~~
~~Prohibited noxious weeds **~~	~~none~~	~~none~~	~~none~~

~~*Other varieties include plants that can be differentiated from the variety being inspected, but shall not include variants characteristic of the variety.~~

~~**The tolerance for prohibited or objectionable weeds, or both, in the field will be determined by the inspector.~~

History: Amended effective May 1, 1986; September 1, 2002; January 2, 2006; July 1, 2010; October 1, 2012; July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-02-04. Seed standards (wheat - oats - barley - rye - triticale).

Seed count required on wheat, oats, barley, and durum.

Variety identification test required for hard red spring wheat and barley.

		Standards for Each Class	
Factor	Foundation	Registered	Certified
Pure seed (minimum) *	99.0 percent	99.0 percent	99.0 percent
Total weed seeds (maximum)	2 per pound	5 per pound	10 per pound
Other varieties **	1 per 2 pounds	1 per pound	3 per pound
Other crop seeds (maximum)	1 per 2 pounds	1 per pound	3 per pound
Inert matter (maximum) ***	1.0 percent	1.0 percent	1.0 percent
Prohibited noxious weed seeds +	none	none	none
Objectionable weed seeds (maximum) ++	1 per 2 pounds	1 per 2 pounds	1 per pound
Germination +++	85.0 percent	85.0 percent	85.0 percent

*The standard for durum and rye shall be 98.0 percent minimum.

**Other varieties shall not include variants characteristic of the variety. White wheat must be tested for red wheat contaminants.

***For all crops foreign matter other than broken seed shall not exceed 0.2 percent. Durum, triticale, and rye may contain 2.0 percent maximum inert matter.

+Including the seeds of quackgrass.

++Objectionable weed seeds shall include the following: dodder, wild oats, hedge bindweed (wild morning glory), giant ragweed (kinghead), falseflax, and dragonhead.

+++Winter wheat, durum, and rye minimum 80.0 percent.

Note: A barley labeler is responsible for having a loose smut test, by an official laboratory, on the harvested seed of each field of barley. If seed from more than one field is blended without having a

test for each field, a loose smut test must be made on each seed lot or sublot. The percentage of loose smut will be printed on the certification certificate or label. ~~The foundation class of barley has a zero tolerance for barley stripe mosaic virus.~~

History: Amended effective May 1, 1986; May 1, 1988; December 18, 1989; August 1, 1991; September 1, 2002; January 2, 2006; July 1, 2010; October 1, 2012; July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-02-05. Seed standards (flax).

Repealed effective July 1, 2018.

		~~Standards for Each Class~~	
~~Factor~~	~~Foundation~~	~~Registered~~	~~Certified~~
~~Pure seed (minimum)~~	~~99.0 percent~~	~~99.0 percent~~	~~98.5 percent~~
~~Total weed seeds (maximum)~~	~~15 per pound~~	~~15 per pound~~	~~30 per pound~~
~~Other varieties (maximum) *~~			
~~Brown~~	~~2 per pound~~	~~8 per pound~~	~~16 per pound~~
~~Yellow~~	~~4 per pound~~	~~16 per pound~~	~~32 per pound~~
~~Other crop seeds (maximum)~~	~~2 per pound~~	~~5 per pound~~	~~10 per pound~~
~~Inert matter (maximum) **~~	~~1.0 percent~~	~~1.0 percent~~	~~1.5 percent~~
~~Prohibited noxious weed seeds ***~~	~~none~~	~~none~~	~~none~~
~~Objectionable weed seeds (maximum) +~~	~~1 per 2 pounds~~	~~1 per 2 pounds~~	~~3 per pound~~
~~Germination (minimum)~~	~~85.0 percent~~	~~85.0 percent~~	~~85.0 percent~~

~~*Other varieties shall not include variants characteristic of the variety.~~

~~**Foreign matter, other than broken seed, may not exceed 0.2 percent.~~

~~***Including seeds of quackgrass.~~

~~+Objectionable weed seeds shall include the following: dodder species, wild oats, hedge bindweed (wild morning glory), giant ragweed (kinghead), small seeded falseflax, and American dragonhead.~~

~~**History:** Amended effective May 1, 1986; May 1, 1987; May 1, 1988; September 1, 2002; January 2, 2006; October 1, 2012.~~
~~**General Authority:** NDCC 4.1-52-10~~
~~**Law Implemented:** NDCC 4.1-52-10, 4.1-53-42~~

CHAPTER 74-03-03
SPECIFIC CROP REQUIREMENTS - ALFALFA (NONHYBRID)

[Repealed effective July 1, 2018]

~~Section~~
~~74-03-03-01 Land Requirements~~
~~74-03-03-02 Field Inspection~~
~~74-03-03-03 Field Standards~~
~~74-03-03-04 Seed Standards~~

CHAPTER 74-03-09.1

74-03-09.1-01. Land requirements.

Crops for production of foundation seed must not be planted on land that has grown canola, rapeseed, ~~or~~ mustard, or oilseed radish during the preceding five years. Crops for production of certified seed must not be planted on land that has grown canola, rapeseed, ~~or~~ mustard, or oilseed radish during the preceding three years.

History: Effective October 1, 2012; amended effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-10-03. Field standards.

1. **Isolation.** Fields of safflower planted to produce the registered or certified class of seed shall be at least one thousand three hundred twenty feet [402.34 meters] from any other variety or noncertified field of safflower. When certified classes of seed of the same variety are planted in close proximity, no isolation requirement applies, except to maintain field borders.

2. **Specific field standards.**

	Maximum Permitted in Each Class		
Factor	Foundation	Registered	Certified
Other varieties *	~~1:5,000~~1:10,000	1:2,000	1:1,000
Inseparable other crops	1:30,000	1:10,000	1:3,000
Prohibited noxious weeds**	none	none	none

*Other varieties shall include plants that can be differentiated from the variety being inspected, but shall not include variants characteristic of the variety.

**The tolerance for prohibited or objectionable weeds, or both, in the field will be determined by the inspector.

History: Amended effective May 1, 1986; September 1, 2002; January 2, 2006; October 1, 2012; July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

CHAPTER 74-03-12.1

74-03-12.1-03. Field standards.

1. **Isolation.** Prior to inspection, a field must be isolated from inseparable crops by a fence row, natural boundary, or by a strip at least five feet [1.52 meters] wide which is either mowed, sprayed, or uncropped.

2. **Specific field standards.**

	Maximum Tolerance		
Factor	Foundation	Registered	Certified
Other varieties *	~~0.01 percent~~none	0.01 percent	0.01 percent
Other crops (inseparable)	none	none	none
Prohibited noxious weeds **	none	none	none

*Other varieties include plants that can be differentiated from the variety being inspected, but shall not include variants characteristic of the variety inspected.

**The tolerance for prohibited or objectionable weeds, or both, in the field will be determined by the inspector.

History: Effective July 1, 2010; amended effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-12.1-04. Seed standards.

Seed count and variety identification tests required on field peas.

	Standard for Each Class		
Factor	Foundation	Registered	Certified
Pure seed (minimum)	98.0 percent	98.0 percent	98.0 percent
Total weed seeds (maximum)	none	1 per pound	2 per pound
Other varieties (maximum) *	~~0.1 percent~~none	~~0.2 percent~~1 per 2 pounds	~~0.2 percent~~1 per pound
Other crop seeds (maximum)	none	1 per 2 pounds	1 per pound
Inert matter	2.0 percent	2.0 percent	2.0 percent
Prohibited noxious weed seeds	none	none	none
Objectionable weed seeds **	none	none	none
Germination and hard seeds	85.0 percent	85.0 percent	85.0 percent

*Other varieties shall not include variants characteristic of the variety or allowance for Austrian/forage pea seed.

**Objectionable weed seeds are dodder, hedge bindweed (wild morning glory), wild oats, buckhorn, hoary alyssum, horsenettle, quackgrass, wild vetch species, giant foxtail, wild radish, nightshade species, and cocklebur.

History: Effective July 1, 2010; amended effective October 1, 2012; July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

CHAPTER 74-03-14
SPECIFIC CROP REQUIREMENTS - HYBRID WHEAT

Section
74-03-14-01 General Requirements
74-03-14-02 Land Requirements
74-03-14-03 Field Inspection
74-03-14-04 Field Standards
74-03-14-05 Seed Standards

74-03-14-01. General requirements.

The following genetic standards are applicable for the production of parental lines and hybrid wheat produced by commingling a cytoplasmic male-sterile seed parent and a fertility restorer line.

1. **Eligibility requirements for varieties.** Standards applicable to wheat varieties apply to the production of pollinator lines.

2. **Definition of parental types.**

   a. **Maintainer (B-line).** A line with normal fertile cytoplasm which is used as a pollinator to increase the seed parent.

   b. **Seed parent (A-line).** A cytoplasmic male-sterile line, which is genetically identical to the maintainer line that when pollinated by a restorer, produces hybrid seed.

   c. **Restorer (R-line).** Any male fertile line possessing nuclear restoration genes used as a pollinator in the production of commercial hybrid seed.

3. **Eligible seed classes.**

   a. Only the certified class is recognized in the production of commercial hybrid seed. A commercial hybrid is planted for any use except for seed production. To be certified, a commercial hybrid must be produced from foundation class seed stocks. These seed stocks must consist of male steriles, inbred lines, and/or hybrids.

   b. Only the foundation class is recognized for parental lines.

History: Effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-14-02. Land requirements.

1. Maintainer and restorer lines are not eligible for foundation class if planted on land on which the same kind was grown the previous two years unless the previous crop was the same variety and was inspected for certification.

2. Seed parents are not eligible for certification if planted on land on which the same kind was grown the previous two years.

3. Commercial hybrid are not eligible for certification if planted on land on which the same kind was grown the previous two years.

History: Effective July 1, 2018.
General Authority: NDCC 4.1-52-10

Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-14-03. Field inspection.

Fields for the production of parental lines utilized in hybrid wheat production must be inspected as follows. Roguing to remove undesirable plants must be done prior to field inspection. Rogued plants must be removed from the field.

1. AxB production. Seed parents must be inspected three times. The first inspection must occur after heading but before anthesis to check for off-type plants. The second and third inspections must be during anthesis to check for shedders in the seed parent, the presence of which must be communicated immediately with the seed producer to allow for roguing.

2. Maintainers and restorers. Male lines must be inspected at least once for purity after the crop is fully headed.

3. Commercial hybrid production fields must be inspected at least once.

History: Effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-14-04. Field standards.

1. **Isolation.**

   a. Seed parent increases (AxB). Fields or parts of fields acceptable for production of seed parents to be used for the production of commercial hybrid seed must be so located that the seed parent is not less than two thousand six hundred forty feet [804.67 meters] from fields of other kinds or varieties that could provide a source of contamination, or from fields of the same variety that do not meet varietal purity requirements for certification. The A-line and B-line must be separated by an unplanted strip of ground adequate to prevent mechanical mixture.

   b. Restorer increases. Prior to inspection, the field must be isolated from inseparable crops by a strip at least five feet wide to prevent mechanical contamination.

   c. Commercial hybrids. Fields or parts of fields acceptable for production of commercial hybrid seed must be no less than three hundred thirty feet [100.58 meters] from fields of other kinds or varieties that would provide a source of contamination, or from fields of the same variety that do not meet varietal purity requirements for certification.

2. **Specific field standards.**

Factor	A-Line Foundation	B- and R-Lines Foundation	Commercial Hybrid Certified
Pollen shedders	1:3,000	N/A	N/A
Other varieties *	1:3,000	1:3,000	1:3,000
Inseparable other crops	1:30,000	1:30,000	1:5,000
Prohibited noxious weed seeds **	none	none	none

*Other varieties include plants that can be differentiated from the variety being inspected,

but may not include variants that are characteristic of the variety.

**The tolerance for prohibited or objectionable weeds, or both, in the field will be determined by the inspector.

History: Effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-14-05. Seed standards.

A variety identification test is required for A-, B-, and R-lines. A hybridity test is required on hybrid seed. A seed count is required on all lines.

	Standards for Each Class	
	A-, B-, and R-Lines	Commercial Hybrid
Factor	Foundation	Certified
Pure seed (minimum)	98.0 percent	98.0 percent
Hybridity (minimum) *	N/A	75.0 percent
Total weed seeds (maximum)	0.10 percent	0.10 percent
Other varieties **	0.005 percent	0.05 percent
Other crop seeds (maximum)	0.01 percent	0.08 percent
Inert matter (maximum) ***	2.0 percent	2.0 percent
Prohibited noxious weed seeds	none	none
Germination	80.0 percent	80.0 percent

*Hybridity will be determined by a method of acceptable accuracy that can be reproduced by a certifying agency. The completed test must be submitted to the agency with a declaration of the hybridity prior to final certification of each lot.

**Other varieties include plants that can be differentiated from the variety being inspected, but may not include variants that are characteristic of the variety.

***Inert matter may not include more than 0.5 percent of material other than seed fragments of the variety under consideration.

History: Effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

CHAPTER 74-03-15
SPECIFIC CROP REQUIREMENTS - FLAX

Section
74-03-15-01 Land Requirements
74-03-15-02 Field Inspection
74-03-15-03 Field Standards
74-03-15-04 Seed Standards

74-03-15-01. Land requirements.

A crop of flax is not eligible for certification if planted on land on which the same kind was grown the year previous unless the previous crop was the same variety and was inspected for certification.

History: Effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-15-02. Field inspection.

All field inspection of flax must be made after the crop is in bloom stage. A field harvested before inspection is not eligible for certification.

History: Effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-15-03. Field standards.

1. **Isolation.**

Prior to inspection, the field must be isolated from inseparable crops by a fence row, natural boundary, or by a strip at least five feet [1.52 meters] wide which is either mowed, sprayed, or uncropped.

2. **Specific field standards (flax).**

	Maximum Tolerance		
Factor	Foundation	Registered	Certified
Other varieties *	1:10,000	1:5,000	1:2,000
Prohibited noxious weeds **	none	none	none

*Other varieties include plants that can be differentiated from the variety being inspected, but shall not include variants which are characteristic of the variety.

**The tolerance for prohibited or objectionable weeds, or both, in the field will be determined by the inspector.

History: Effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-15-04. Seed standards.

Factor	Standards for Each Class		
	Foundation	Registered	Certified
Pure seed (minimum)	99.0 percent	99.0 percent	98.5 percent
Total weed seeds (maximum)	15 per pound	15 per pound	30 per pound
Other varieties (maximum) *			
Brown	2 per pound	8 per pound	16 per pound
Yellow	4 per pound	16 per pound	32 per pound
Other crop seeds (maximum)	2 per pound	5 per pound	10 per pound
Inert matter (maximum) **	1.0 percent	1.0 percent	1.5 percent
Prohibited noxious weed seeds ***	none	none	none
Objectionable weed seeds (maximum) +	1 per 2 pounds	1 per 2 pounds	3 per pound
Germination (minimum)	85.0 percent	85.0 percent	85.0 percent

*Other varieties may not include variants characteristic of the variety.

**Foreign matter, other than broken seed, may not exceed 0.2 percent.

***Including seeds of quackgrass.

+Objectionable weed seeds include dodder species, wild oats, hedge bindweed (wild morning glory), giant ragweed (kinghead), small seeded falseflax, and American dragonhead.

History: Effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

CHAPTER 74-03-16
SPECIFIC CROP REQUIREMENTS - INDUSTRIAL HEMP

Section
74-03-16-01 General Requirements
74-03-16-02 Land Requirements
74-03-16-03 Field Inspection
74-03-16-04 Field Standards
74-03-16-05 Seed Standards

74-03-16-01. General requirements.

All production of industrial hemp crops is subject to license application approval that may be required by regulatory authorities. Only growers who possess a current license with the North Dakota department of agriculture are eligible to produce certified seed. Only varieties of industrial hemp approved by regulatory authorities for seed production and which meet Federal Seed Act eligibility requirements are eligible for certification. Growers may be required by regulatory agencies to obtain tetrahydrocannabinol test results according to applicable regulations. Growers may be required to submit test results to the seed certifying agency before labels are issued. Upon meeting final certification requirements, eligible seed will be labeled in the licensee's name only.

History: Effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-16-02. Land requirements.

A crop of foundation or registered class industrial hemp is not eligible for certification if planted on land on which the same kind of crop was grown the previous three years unless the previous crop was the same variety and passed field inspection for certification. A crop for certified class is not eligible for certification if planted on land on which the same kind of crop was grown the previous two years unless the previous crop was the same variety and passed field inspection for certification.

History: Effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-16-03. Field inspection.

It is the grower's responsibility to ensure fields are inspected prior to swathing or harvesting. A field harvested before inspection is not eligible for certification. All fields must be inspected at least once before harvest at a stage of growth when varietal purity is best determined. Two inspections are required for foundation seed fields.

History: Effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-16-04. Field standards.

1. **Isolation.**

a. Prior to inspection, the field must be isolated from fields of any other variety or fields of the same variety not meeting genetic purity requirements for certification.

b. The minimum isolation distances required between inspected industrial hemp and other hemp crops must be maintained as specified in the following table. There must be no hemp plants within three hundred feet [91.44 meters] of a seed field and no more than four plants per acre outside three hundred feet [91.44 meters]. Industrial hemp crops must be isolated from other inseparable crops by a minimum of ten feet.

	Dioecious Types		Monoecious Types and Hybrids	
Other Hemp Crops	Foundation Registered	Certified	Foundation Registered	Certified
Different varieties of industrial hemp or noncertified crop of same variety	16,150 feet	3,230 feet	N/A	N/A
Lower certified class of seed crop of same variety	6,460 feet	646 feet	N/A	N/A
Dioecious variety of industrial hemp or noncertified crop of the same kind	N/A	N/A	16,150 feet	3,230 feet
Different varieties of the same type of industrial hemp (monoecious or female hybrid)	N/A	N/A	6,460 feet	646 feet
Lower certified class of seed crop of same variety	N/A	N/A	3,230 feet	646 feet

2. **Specific field standards.**

a. Roguing to remove undesirable plants must be done before field inspection. Rogued plants must be removed from the field to be harvested.

b. Any combination of impurities may be reason for failing an inspection. Unless otherwise specified by the breeder, an industrial hemp crop for certification must not exceed the limits specified in the following table. Impurities may include harmful contaminants (species capable of cross pollinating with the inspected variety), plants of other varieties or distinct types foreign to the variety being inspected, weeds, or other inseparable crops.

c. The table indicates the maximum number of impurities permitted in approximately ten thousand plants of the inspected crop.

	Dioecious Types		Monoecious Types		Monoecious Types and Hybrids
Factor	Foundation	Registered Certified	Foundation	Registered	Certified
"Too male" monoecious plants	N/A	N/A	500	1,000	N/A
Dioecious male plants shedding pollen	N/A	N/A	1	2	100
Other impurities	3	10	3	10	10

History: Effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-16-05. Seed standards.

	Standards for Each Class		
Factor	Foundation	Registered	Certified
Pure seed (minimum)	98.0 percent	98.0 percent	98.0 percent
Total weed seeds (maximum)	0.10 percent	0.10 percent	0.10 percent
Other varieties	0.005 percent	0.01 percent	0.05 percent
Other crop seeds (maximum)	0.01 percent	0.03 percent	0.08 percent
Inert matter (maximum) *	2.0 percent	2.0 percent	2.0 percent
Prohibited noxious weed seeds	none	none	none
Other kinds **	0.10 percent	0.03 percent	0.07 percent
Germination	80.0 percent	80.0 percent	80.0 percent

*Inert matter may not include more than 0.5 percent of material other than seed fragments of the variety under consideration.

**Other kinds may not exceed 2 per pound for foundation, 6 for registered, and 10 for certified.

History: Effective July 1, 2018.
General Authority: NDCC 4.1-52-10
Law Implemented: NDCC 4.1-52-10, 4.1-53-42

CHAPTER 74-04-01

74-04-01-02. General requirements and responsibilities.

1. Participation and responsibility.

   a. Participation in this seed potato program is voluntary and may be withdrawn prior to the first inspection.

   b. Responsibilities.

      (1) Seed department responsibilities. The inspections, approvals, certification, and production of these rules and regulations will be done by the state seed department.

      (2) Applicants' responsibilities. The farming, sanitation practices, storing, and packing will be the grower's responsibility. It is the responsibility of the applicant to maintain genetic purity and identity at all stages of certification, including planting, harvesting, storing, and handling. Evidence that any lot of seed has not been protected from contamination that might affect genetic purity or is not properly identified shall be cause for possible rejection of certification.

2. General requirements.

   a. Potatoes to be eligible for the program shall have been in a certification program and winter tested for eligibility.

   b. Fields will pass two or more inspections given by visual examination of a representative sample of the plants which method and size of sample will be determined by the state seed department.

   c. Fields passing inspection will be stored in a seed warehouse and sorted to grade at shipping time.

   d. Responsibility for the quality of work done in sorting the potatoes falls upon the grower or a thoroughly qualified agent authorized by the grower.

   e. Requirements for certification are not complete on any lot of eligible potatoes until properly labeled as described in this chapter and an official seed grade inspection certificate has been issued. Official labels will be provided to the grower by the state seed department in hard copy or electronic form. Official seed grade inspections are compulsory for seed shipped out of state. Grade inspection is voluntary for intrastate shipments. For those shipments that are not inspected, or that fail to meet grade standards described in section 74-04-01-11, the label must state "no grade".

   f. The responsibility for properly and accurately labeling foundation or certified seed rests with the grower of the seed. The labels will be issued to the purchaser only on order or authorization from the grower, who must provide to the purchaser a proper and accurate label for each container or load of seed at the time of delivery. ~~These labels are to accompany the potatoes at shipment.~~ Labels must not be applied to stock other than that indicated on the tags or bulk certificates. Bulk shipments, by truck or railcar, when thoroughly disinfected, may be considered the container.

   g. The seed label must contain the following information:

      (1) Year in which the crop was produced.

      (2) Grower/labeler's name.

(3) Variety.

(4) Generation.

(5) Class.

(6) Certification or application number of the seed lot.

(7) Total amount in container represented by cwt.

h. Resorting or regrading. If a lot of potatoes fails to meet certified seed grade requirement upon inspection, they are to be reconditioned to meet the requirement or the official labels must be removed.

~~h.~~i. Reconditioning while in transit. In the case of any circumstance making it essential to recondition seed in transit, permission must be obtained from the state seed department.

~~i.~~j. Latent virus testing. Serological testing for latent viruses shall be voluntary and a requirement for only virus-tested seed. Virus-tested seed meeting established tolerances may be indicated on the label.

~~j.~~k. Upon the discretion of the state seed department, potato seed lots originating from out of state may be subjected to a laboratory test, by a seed department-approved laboratory, for the detection of seedborne pathogens. Eligibility for recertification of any seed lot so tested must be based on that laboratory test. Additional documentation, including health certificates or summer or winter, or both, field readings, may be required by the seed department prior to acceptance for recertification in this state.

~~k.~~l. Failure to comply with any of the requirements of this chapter may be cause for rejection or cancellation of the lot or the certification of any seed as seed potatoes.

3. No person may disclaim responsibility of the vendor of the seed for the data or information on the label required by law and any such disclaimer of vendor's express or implied warranty is invalid.

4. Violations. The state law specifically states the use of the term "certified" or the term "registered" or any term or terms conveying a meaning substantially equivalent to the meaning of any said terms, either orally or in writing, printing, marking, or otherwise in reference to or in connection with or in advertising or characterizing or labeling seed potatoes or the containers thereof is prohibited, unless such potatoes shall have been duly inspected and certified pursuant to the provisions of the law. Any violation of this law and any person on conviction thereof, shall be fined not more than one hundred dollars and cost for first offense and not more than five hundred dollars and costs of prosecution for subsequent offenses.

History: Amended effective December 1, 1981; June 1, 1992; January 2, 2006; July 1, 2007; October 1, 2012; July 1, 2018.
General Authority: NDCC 28-32
Law Implemented: NDCC 4.1-55-02

74-04-01-04. Application fees and restrictions.

1. Application for field inspection must be received in the state seed department, university station, Fargo, North Dakota, not later than June fifteenth. There is a ~~one~~three dollar per acre [.40 hectare] cash penalty for later applications.

2. At least one-half the fees and all due accounts must accompany the applications.

3. Applications are subject to cancellation in the case of crop failure or other valid reason and the application fee, minus a cancellation fee will be returned if the request reaches the state seed department before the inspector arrives in the general locality of the field. However, in such a case, the crop must be plowed under or destroyed so as not to create a disease hazard.

4. Separate application forms are required for latent virus testing.

5. Loss by drown outs, if over twenty-five percent of the field, will be allowed after the first inspection only. No adjustments will be made thereafter.

6. Fee schedules for field inspection, grade inspection, latent virus testing, cancellation fees, and late penalties are subject to change and available at the state seed department.

7. Prompt payment of all fees will be required at all times.

8. Additional testing such as laboratory tests will be assessed at costs to the grower.

History: Amended effective December 1, 1981; December 1, 1987; June 1, 1992; September 1, 1997; September 1, 2002; July 1, 2018.
General Authority: NDCC 28-32
Law Implemented: NDCC 4.1-55-02

TITLE 93

PRIVATE INVESTIGATIVE AND SECURITY BOARD

JULY 2018

CHAPTER 93-02-01.1

93-02-01.1-05. Armed personnel - Possession and use of firearms in the course of providing private investigative services.

It is unlawful for any individual, including agency personnel, to carry a firearm while providing private investigative services unless the individual carrying the firearm:

1. Is in compliance with all existing state and federal laws governing weapons or firearms, including certification and licensing when necessary;

2. Has completed the same requirements for firearms training as is required for North Dakota peace officers. ~~However, if~~If the individual fails the written examination or shooting course twice, the individual must wait at least thirty days to retake the failed portion, and if the individual fails the written examination or shooting course a third time, the individual must wait a full year before retaking the written examination or shooting course; and

3. Has provided at least one thousand hours of private investigative or private security services.

History: Effective May 1, 2000; amended effective May 1, 2005; July 1, 2018.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-04

93-02-01.1-10. Issuance of pocket cards.

1. To each individual licensed or registered by the board, the board shall issue a ~~laminated~~ pocket card. The board will not issue a pocket card to an individual performing private investigative services for a detective agency on a contractual basis if that individual is already licensed as a private investigator. Each individual licensed or registered by the board shall have on that individual's person, the pocket card issued while providing private investigative services.

2. When a registered employee or independent contractor of a detective agency terminates employment or a contract with the agency, that individual shall return the pocket card to the agency immediately after termination. Within seven days after receiving the pocket card of the terminated individual, the agency shall mail or deliver the pocket card to the board for cancellation, with a letter from the holder of the agency license stating the date the registered individual was terminated and the date the agency received the terminated individual's card.

3. If the board revokes, suspends, or disapproves the renewal of a license or registration of any individual, the board may require the individual to return the individual's pocket card within fourteen days.

4. If the board revokes, suspends, or disapproves renewal of a detective agency license, the board may require the agency to return the pocket cards of all its registered employees and independent contractors within fourteen days of the request by the board.

History: Effective May 1, 2000; amended effective May 1, 2005; July 1, 2018.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-05

CHAPTER 93-02-02.1

93-02-02.1-06. Qualifications for security officers.

To qualify for registration as a security officer, an individual must provide a minimum of one thousand hours of private security service as a registered apprentice security officer and complete an additional thirty-two hours of classroom instruction as required by the board. An individual actively serving or honorably discharged from the United States armed forces, army national guard of the United States, army reserve, navy reserve, marine corps reserve, air national guard of the United States, air force reserve, or coast guard reserve is deemed to have met the one thousand hours of private security service requirement.

History: Effective May 1, 2000; amended effective July 1, 2018.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-04

93-02-02.1-09. Qualifications for trainers.

Classroom instruction required of apprentice security officers, security officers, or commissioned security officers must be conducted by trainers certified by the board. To be certified as a trainer, an individual must have achieved the rank of commissioned security officer as defined in section 93-02-02.1-07 and meet at least one of the following requirements:

1. ~~Two thousand hours of active service as a security officer~~Completion of an instructor training course in a relevant discipline;

2. Equivalent combination of training and experience as defined in section 93-02-02.1-10;

3. One year of experience as an instructor in a relevant discipline at an educational institution or educational agency;

4. A degree from any educational institution in a ~~nonrelevant~~relevant discipline ~~plus at least a minor in a relevant discipline~~; or

5. Certification from an accredited vocational education provider.

History: Effective May 1, 2000; amended effective July 1, 2018.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-04

93-02-02.1-09.1. Qualifications for armed instructors.

Written and practical instruction and testing must be conducted by a board-certified instructor. To be certified as an armed instructor, an individual must meet at least one of the following requirements:

1. Is a certified weapons instructor by the North Dakota peace officer standards and training board.

2. Is a certified law enforcement weapons instructor by the national rifle association.

3. Has completed twenty-four months of apprenticeship training under the direct, onsite supervision of a board-certified weapons instructor. During the twenty-four-month apprenticeship period, the candidate must be at least a security officer and hold an armed certificate. After completion of the apprenticeship, the instructor must submit a notice to the board showing that the candidate has successfully completed the candidate's apprenticeship and the instructor is requesting certification for the candidate.

History: Effective May 1, 2005; amended effective July 1, 2018.

General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-04

93-02-02.1-14. Issuance of pocket cards.

1. To each individual licensed or registered by the board, the board shall issue a ~~laminated~~ pocket card. Each individual licensed or registered by the board shall have on that individual's person, the pocket card issued while providing private security services.

2. When a registered employee or independent contractor of a private security agency terminates employment or a contract with the agency, that individual shall return the pocket card to the agency immediately after termination. Within seven days after receiving the pocket card of the terminated individual, the agency shall mail or deliver the pocket card to the board for cancellation, with a letter from the holder of the agency license stating the date the registered individual was terminated and the date the agency received the terminated individual's card.

3. If the board revokes, suspends, or disapproves the renewal of a license or registration of any individual, the board may require the individual to return the individual's pocket card within fourteen days.

4. If the board revokes, suspends, or disapproves renewal of a private security agency license, the board may require the agency to return the pocket cards of all its registered employees and independent contractors within fourteen days of the request by the board.

History: Effective May 1, 2000; amended effective May 1, 2005; July 1, 2018.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-05

CHAPTER 93-02-03

93-02-03-03. Renewal of licenses and registrations.

1. Licenses and registrations issued by the board expire on September thirtieth of each year.

2. Every individual or agency who previously held a license or registration issued by the board and whose license or registration has expired may have the same restored immediately upon payment of all lapsed renewal fees and any applicable late fees; provided, however, that not more than ~~thirty~~sixty days has elapsed since the date of expiration, and provided that the individual or agency has not provided private investigative or private security services during the time in which the license or registration was expired.

3. This section does not relieve any person from criminal prosecution for engaging in practice or providing services without a license as required by North Dakota Century Code chapter 43-30. Once a license or registration has lapsed, the individual or agency who held the license or registration may not provide private investigative or private security services until the license or registration is renewed or until a new license or registration is issued.

4. Any individual or agency who fails to renew a lapsed license or registration and who fails to pay all lapsed renewal fees and late fees within ~~the time required by this section~~sixty days of the expiration date must reapply for a new license or registration and meet all the requirements for licensing or registration, including a state and nationwide criminal history record check.

History: Effective March 1, 1990; amended effective May 1, 2000; May 1, 2005; July 1, 2007; July 1, 2010; July 1, 2018.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-11

93-02-03-06. Fees - Amount - Late fees.

In addition to statutory fees, the board charges the following fees:

1. An individual must pay a fee of one hundred dollars to take the examination to become licensed to provide investigative or private security services.

2. An individual must pay a fee of one hundred thirty dollars to receive an initial license or renew the individual's license to provide private investigative or private security services. In addition, a late fee of fifty dollars must be paid for each month the renewal is late, up to a maximum cumulative late fee of one hundred dollars for a late renewal. After this two-month timeframe, a new application, including criminal searches, fees, and testing, is required.

3. An individual or entity must pay a fee of one hundred dollars to apply for a license to operate a private security or detective agency.

4. An individual or entity must pay a fee of two hundred fifty dollars to receive an initial license or renew a license to operate a private security or detective agency.

5. An individual must pay a fee of twenty dollars to receive a private security training certificate. There is no expiration date for these certifications.

6. An individual must pay an annual fee of twenty-five dollars to receive an armed private security certificate. Armed private security certificates expire on September thirtieth of each year.

7. An individual or entity must pay a fee of ten dollars to obtain a duplicate license or registration.

8. An individual must pay a fee of twenty-five dollars to obtain an initial registration to provide private investigative or private security services. The registration shall be submitted by the licensed agency. An individual must pay twenty-five dollars for renewing registration to provide private investigative or private security services. A late fee of ten dollars must also be paid for each month the renewal is late.

History: Effective May 1, 2000; amended effective May 1, 2005; July 1, 2010; October 1, 2013; July 1, 2018.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-16

TITLE 97

BOARD OF COUNSELOR EXAMINERS

JULY 2018

CHAPTER 97-02-01
LICENSING REQUIREMENTS

Section
97-02-01-01 Requirements to Become a Licensed Professional Counselor
97-02-01-01.1 Fees
97-02-01-02 Academic Programs
97-02-01-03 Requirements to Become a Licensed Associate Professional Counselor
97-02-01-03.1 Fees
97-02-01-04 ~~Waiving Formal Examination~~Reciprocity
97-02-01-05 Renewal of License
97-02-01-05.1 Late Renewal [Repealed]
97-02-01-06 Continued Professional Education
97-02-01-07 Grandfather Provisions [Repealed]
97-02-01-08 Certification of Supervisors

97-02-01-01. Requirements to become a licensed professional counselor.

In order for an applicant to become a licensed professional counselor, an individual must make application to the board, supplying, at a minimum, the following information:

1. A copy of a master's degree transcript from an accredited school or college that meets the academic standards set forth in section 97-02-01-02.

2. Three recommendations as follows:

   a. One from the counselor educator who provided direct supervision in the applicant's counseling practicum or internship;

   b. One from an employer who provided general supervision of the applicant's work since receipt of the master's degree; and

   c. One from the professional who provided direct supervision of the applicant's counseling experience.

3. Certification that the individual has a minimum of two years of supervised experience under a licensed professional counselor or licensed professional clinical counselor certified as a supervisor under section 97-02-01-08, or under a supervision authorized under subdivision c of subsection 2 of North Dakota Century Code section 43-47-06. The supervision must include individual, face-to-face meetings that occur at regular intervals over a two-year period. Supervision in a group setting may also be provided, such as in the case of a conference

among members of a professional staff or other arrangement. A total of one hundred hours over the two-year period of supervision through individual and group methods must be documented. At least sixty hours must be individual face-to-face supervision. The supervised experience may not be in a practice in which the applicant holds an ownership interest. Face to face includes ~~web supervision~~electronic video communications that are secure and Health Insurance Portability and Accountability Act compliant on a secure server.

4. Provides a statement of intent to practice, describing proposed use of the license, the intended client population, and the counseling procedures that the applicant intends to use in serving the client population.

5. Showing successful completion of the national counselor examination as distributed and administered under the auspices of the national board of certified counselors.

History: Effective June 1, 1991; amended effective February 1, 1995; February 1, 1998; July 1, 2014; July 1, 2018.
General Authority: NDCC 28-32-02, 43-47-03
Law Implemented: NDCC 43-47-03, 43-47-06

97-02-01-01.1. Fees.

The following fees have been established by the board for the licensed professional counselor:

1. Application fee, one hundred fifty dollars.

2. If the applicant's transcript requires review to determine whether the academic program and coursework meet the requirements of section 97-02-01-02, the board may submit the transcript for review to the national board for certified counselors and the fee assessed by the national board for certified counselors will be paid by the applicant.

3. Renewal fee, one hundred fifty dollars.

History: Effective February 1, 1998; amended effective July 1, 2014; July 1, 2018.
General Authority: NDCC 28-32-02, 43-47-03
Law Implemented: NDCC 43-47-03, 43-47-06

97-02-01-02. Academic programs.

Academic programs are programs identified specifically as counseling programs in the graduate bulletin of the accredited school or college. These programs include counseling, counselor education, counseling and guidance, counseling and development, and counseling psychology. In addition to the master's degree in counseling, the applicant's graduate transcript or transcripts must indicate a minimum of ~~forty-eight~~sixty semester credits or ~~seventy-two~~ninety quarter credits relating to counseling, including coursework in ~~counseling~~:

1. Counseling theories~~, counseling~~;

2. Counseling methods~~, group~~;

3. Group counseling~~, individual~~;

4. Individual appraisal, assessment, or testing~~,~~;

5. Counseling-related research methods~~, human~~;

6. Human growth and development~~, social and cultural foundations, career~~;

7. Multicultural counseling;

8. Career and lifestyle development~~, professional~~;

9. Professional orientation and ethics~~,~~; and ~~counseling~~

10. Counseling practicum ~~or~~and internship.

The practica ~~or internships~~ must consist of ~~seven~~one hundred hours of training in supervised practica ~~and internships~~ in settings relevant to the practice of counseling. ~~These~~The internship must consist of six hundred hours of training in supervised internship settings relevant to the practice of counseling. The practica and internship hours may be within the required graduate semester hours. The research methods coursework must include content on statistical analysis of data sets pertaining to topics in counseling. The professional orientation and ethics coursework must be at least three semester credits or five quarter credits, and include content on the profession of counseling and the American counseling association code of ethics. ~~Effective July 1, 2017, the applicant's graduate transcript must indicate a minimum of sixty semester credits or ninety quarter credits, including the same coursework.~~

History: Effective June 1, 1991; amended effective February 1, 1995; February 1, 1998; July 1, 2014; July 1, 2018.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 43-47-06

97-02-01-03. Requirements to become a licensed associate professional counselor.

In order for an applicant to become a licensed associate professional counselor, an individual must make application to the board, supplying, at a minimum, the following information:

1. A copy of a master's degree from an accredited school or college that meets the academic standards set forth in section 97-02-01-02.

2. Three recommendations as follows:

   a. One from the practicum agency contact person;

   b. One from the applicant's master's degree program advisor; and

   c. One from an additional counselor educator.

3. A written plan which at a minimum must include an estimated number of client contact hours per week and must specify the supervision received. The supervision must include individual, face-to-face meetings that occur at regular intervals over the two-year period. Supervision in a group setting may also be provided such as in case conference among members of a professional staff or other arrangement. A total of one hundred hours over the two-year period of supervision through individual and group methods must be documented. At least sixty hours must be individual face-to-face supervision. The supervised experience may not be in a practice in which the applicant holds an ownership interest. The supervisor shall be a licensed professional counselor or licensed professional clinical counselor certified as a supervisor under section 97-02-01-08, or under a supervision authorized under subdivision c of subsection 2 of North Dakota Century Code section 43-47-06. Face to face includes electronic ~~means~~video communications that are secure and Health Insurance Portability and Accountability Act compliant on a secure server.

4. Showing successful completion of the national counselor examination as distributed and administered under the auspices of the national board of certified counselors.

History: Effective June 1, 1991; amended effective February 1, 1995; February 1, 1998; July 1, 2014; July 1, 2018.

General Authority: NDCC 28-32-02
Law Implemented: NDCC 43-47-03, 43-47-06

97-02-01-03.1. Fees.

The following fees have been established by the board for the licensed associate professional counselor:

1. Application fee, one hundred fifty dollars.
2. ~~Renewal~~If the applicant's transcript requires review to determine whether the academic program and coursework meet the requirements of section 97-02-01-02, the board may submit the transcript for review to the national board for certified counselors and the fee assessed by the national board for certified counselors will be paid by the applicant.
3. Application fee for advancement to licensed professional counselor, one hundred fifty dollars.
4. Extension fee, one hundred dollars.

History: Effective February 1, 1998; amended effective July 1, 2018.
General Authority: NDCC 28-32-02, 43-47-03
Law Implemented: NDCC 43-47-03, 43-47-06

97-02-01-04. ~~Waiving formal examination~~Reciprocity.

~~The board may grant a license without examination to a person who holds, at the time of the application, a license issued by another state if the person was licensed on the basis of the national counselor examination testing. Applicants not meeting this requirement are required to successfully complete this examination.~~ An applicant for license by reciprocity shall also submit the following items to the board:

1. An application form completed in a manner prescribed by the board accompanied by the required fee.
2. A photostatic copy of the license from the other state.
3. A copy of the licensing statute and rules of the state issuing the license in the other state.
4. The name and address of the licensing committee, agency, or board of the other state.
5. ~~Verified score of the national~~Proof of passing a counselor examination ~~that meets or exceeds the passing score determined~~approved by the board.

The board or its designee shall verify that the licensing state imposes substantially the same requirements as North Dakota, and that there is no other reason constituting good cause for refusing to issue such license.

History: Effective June 1, 1991; amended effective July 1, 2018.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 43-47-03, 43-47-06

CHAPTER 97-02-01.1

97-02-01.1-01. Requirements to become a licensed professional clinical counselor.

For an applicant to become a licensed professional clinical counselor, the individual must be a licensed professional counselor under North Dakota Century Code chapter 43-47 and:

1. Have at least a master's degree from an accredited school or college in counseling ~~or other program~~ that meets the academic and training standards adopted by the board;

2. Have sixty semester graduate hours~~, twelve of which may be obtained in documented training or clinical experience or courses consistent with national board for certified counselors guidelines for the clinical mental health counselor certification~~. A minimum of ~~fifteen contact hours~~one semester credit-hour in each of the following ~~three~~two coursework categories must be included within the sixty semester credits required for the licensed professional clinical counselor. The ~~three~~two categories are:

   a. ~~Review of current~~Current classification methods ~~that includes abnormal psychology and~~in the diagnostic evaluation of psychopathology; and

   b. ~~Review of current classification methods that includes appraisal and diagnostic evaluation; and~~

   ~~c.~~ Clinical counseling skills;

3. Have two years of post-master's clinical experience, including:

   a. Seven hundred hours of ~~clinical training in~~ supervised practica and internships in settings relevant to the practice of ~~clinical~~ counseling. These hours may be within the required sixty graduate semester hours.

   b. Two years (three thousand hours) of post-master's clinical experience in a clinical setting. This must include one hundred hours of face-to-face supervision (a minimum of sixty hours of individual supervision) by a supervisor certified under section 97-02-01-08, or a supervisor authorized under subdivision c of subsection 2 of North Dakota Century Code section 43-47-06. The certified supervisor must be a licensed professional clinical counselor or a supervisor authorized under subdivision c of subsection 2 of North Dakota Century Code section 43-47-06. Face to face includes electronic ~~means~~video communications that are secure and Health Insurance Portability and Accountability Act compliant on a secure server.

4. Provide three professional letters of reference. One must be from the post-master's clinical supervisor. The other two must be from professionals familiar with the applicant's clinical experience;

5. Have passed the clinical mental health counseling examination as offered by the national board for certified counseling; and

6. Provide a ~~demonstration of clinical skills in a videotaped counseling session of no less than thirty minutes duration. This tape may involve either individual or group settings~~copy of a form completed by the applicant's clinical experience supervisor attesting to the applicant's successful demonstration of clinical counseling skills consistent with the scope of practice of a licensed professional clinical counselor. The form and areas for evaluation shall be approved by the board and made available to the applicant.

History: Effective August 1, 1996; amended effective July 1, 2014; July 1, 2018.
General Authority: NDCC 28-32-02

Law Implemented: NDCC 43-47-03, 43-47-06.1

CHAPTER 97-02-03

97-02-03-01. Code of ethics.

The board adopts the American counseling association Code of Ethics as approved by the American counseling association governing council in ~~2005~~2014 as its code of ethics for the practice of counseling. A copy may be obtained from the board.

History: Effective February 1, 1995; amended effective February 1, 1998; December 1, 2001; July 1, 2007; July 1, 2018.
General Authority: NDCC 28-32-02, 43-47-03
Law Implemented: NDCC 43-47-03

TITLE 99

STATE GAMING COMMISSION

JULY 2018

ARTICLE 99-01.3
GAMES OF CHANCE

Chapter	
99-01.3-01	Organization Licenses and Local Permits
99-01.3-02	General Rules
99-01.3-03	Accounting Rules
99-01.3-04	Bingo
99-01.3-04.1	Electronic Quick Shot Bingo
99-01.3-05	Raffles
99-01.3-05.1	Fifty-Fifty Raffle Systems
99-01.3-06	Pull Tabs, Club Special, Tip Board, Seal Board, Prize Board, and Punchboard
99-01.3-06.1	Electronic Pull Tab Devices
99-01.3-07	Sports Pools
99-01.3-08	Twenty-One
99-01.3-09	Poker
99-01.3-10	Calcuttas
99-01.3-11	Paddlewheels
99-01.3-12	Pull Tab Dispensing Devices
99-01.3-12.1	Prize Board Dispensing Devices
99-01.3-13	Bingo Card Dispensing Devices [Repealed]
99-01.3-14	Eligible Uses
99-01.3-15	Distributors
99-01.3-16	Manufacturers

CHAPTER 99-01.3-01

99-01.3-01-05. Permits.

1. A permit is issued by a city or county governing body and may be for a site located on public or private property. It may be restricted, including types of games, days of the week, and designation of an area at a site where games will be conducted. A governing body may revoke or suspend a permit based on good cause.

2. A permit is required for each site at which games have been authorized. The primary prize under a permit may not exceed six thousand dollars and total prizes of all games may not exceed twelve thousand dollars per year. A donated merchandise prize is valued at its retail price.

3. When a governing body issues a permit, it shall assign a permit number, specify the day or period for which it is effective, identify the game types authorized, and send a copy to the

attorney general within fourteen days from when it was issued. An organization that has a license may not at the same time have a permit.

4. An organization may receive one or more local permits to conduct a raffle, bingo, or sports pool from a city or county governing body during a year and may be issued two or more local permits at the same time. For a calendar raffle, a local permit may be issued for a calendar year. If an organization plans to conduct a raffle, a permit may not be issued more than twelve months prior to the first raffle drawing date unless authorized by the attorney general.

5. An organization may receive one charity local permit to conduct a raffle, bingo, sports pool, paddlewheels, twenty-one, or poker from a city or county governing board during a year. If the organization has received a local permit or license during the fiscal year, it may not receive a charity local permit. If the organization received a charity local permit during the fiscal year, it may not receive a local permit. For a charity local permit an organization shall within thirty days of the event file a report on a prescribed form with the attorney general and governing body.

6. For bingo, an organization shall comply with sections 99-01.3-04-01 and 99-01.3-04-02 and the applicable subsections of section 99-01.3-04-03. For a raffle, an organization shall comply with sections 99-01.3-05-01 through 99-01.3-05-04 and subsections 1 through 3 of section 99-01.3-05-05. For a sports pool, an organization shall comply with section 99-01.3-07-01. For twenty-one, an organization shall comply with sections 99-01.3-08-01, 99-01.3-08-02, 99-01.3-08-08, 99-01.3-08-09, 99-01.3-08-10, 99-01.3-08-11, and 99-01.3-08-12. For poker, an organization shall comply with sections 99-01.3-09-01 through ~~99-01.3-09-04~~99-01.3-09-06. For paddlewheels, an organization shall comply with subsection 1 of section 99-01.3-11-01 and the applicable subsections of section 99-01.3-11-02 if conducted with tickets, or subsection 2 of section 99-01.3-11-01 and the applicable subsections of sections 99-01.3-11-03 and 99-01.3-11-04, and section 99-01.3-11-05 if conducted as a table game.

7. Any advertising of a gaming event must include the name of the organization and include the purpose for which the net proceeds will be used. Advertising must cease once the permit or charity local permit has expired.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-03, 53-06.1-06

CHAPTER 99-01.3-02
GENERAL RULES

Section
99-01.3-02-01 Definitions
99-01.3-02-02 Record Check
99-01.3-02-03 Restrictions and Requirements
99-01.3-02-04 Equipment Acquisitions and Use
99-01.3-02-05 Lessor and Organization - Restrictions
99-01.3-02-06 Rental Agreement
99-01.3-02-07 Gaming Manager, Shift Manager, and Reporting Violations
99-01.3-02-08 Currency of Play, Credit Play, and Borrowing From Gaming Funds
99-01.3-02-09 Persons Restricted From Playing Games
99-01.3-02-10 Acknowledgment of the Gaming Law and Rules
99-01.3-02-11 ~~Independent Contractor Services Restricted~~Outside Service Provider Restrictions
99-01.3-02-12 Audit and Inspection of Facilities and Records [Repealed]
99-01.3-02-13 Denial, Suspension, or Revocation of a License

99-01.3-02-01. Definitions.

As used in this article:

1. "Application software" means those computer programs that direct an electronic game system to perform those specific information-processing activities that permit the operation of the electronic game, permit the collection and recording of game information, and permit the reporting of that information to the attorney general. The application software overlays the operating system software and is unable to function without the operating system software.

2. "Attorney general" includes an agent of the attorney general.

~~2.~~3. "Bar" means retail alcoholic beverage establishment where alcoholic beverages are dispensed and consumed. This does not include off sale liquor stores, gas stations, grocery or convenience stores. A bar must be licensed under North Dakota Century Code chapter 5-02 and serve alcoholic beverages for consumption by guests on the premises.

~~3.~~4. "Bar employee" is a person, employed by a bar that is not operated by an organization, who redeems winning pull tabs or prize boards, or both, involving a dispensing device, redeems credit ticket vouchers involving an electronic pull tab device, or who sells raffle tickets or sports pool chances on a board for an organization.

~~4.~~5. "Bingo session" means a program of predetermined number of bingo games that are successively played. Intermissions may be included in the program. A session may not extend beyond a business day. However, any session in progress which continues past midnight must be considered played on the day the session began.

~~5.~~6. "Cash on hand" means coin, currency, and checks, plus an IOU due from another source of cash or nongaming funds, less an IOU owed to another source of cash or nongaming funds.

~~6.~~7. "Cash prize" means coin, currency, marketable security, and a similar item that can be readily redeemed or converted into legal tender. Cash prize does not include precious metal bullion, a coin of precious metal or antique coin that has a market value greater than its face value, or a merchandise gift certificate. The value of a marketable security is its cost.

~~7.~~8. "Cash profit" means:

a. For bingo and electronic quick shot bingo, total ending cash on hand, less starting cash on hand and prizes paid by check, for a bingo session.

b. For a raffle, total receipts less prizes paid by cash and check.

c. For a commingled game of pull tabs, total ending cash on hand, less starting cash on hand and cash prizes paid by check, for a day's activity.

d. For a commingled game of pull tabs involving a dispensing device, total currency withdrawn from a dispensing device, less credit paid on a credit redemption register, cash long or short from an employee bank, and prizes paid, for an interim period.

e. For commingled games of electronic pull tabs at a site, total currency withdrawn from all devices at a site, less credits paid on a credit redemption register, cash long or short from an employee bank, and total credit ticket vouchers paid, for an interim period.

f. For a club special, tip board, seal board, and punchboard, the total daily difference between ending cash on hand and starting cash on hand and less prizes paid by check, for the game.

~~f.~~g. For a prize board, the total daily difference between ending cash on hand and starting cash on hand, less prizes paid by check and cost of coins, for the game.

~~g.~~h. For a prize board involving a dispensing device, total currency withdrawn from a dispensing device, less total cash prizes paid, prizes paid by check, cost of coins, credit paid on a credit redemption register, and cash long or short from an employee bank, for the game.

~~h.~~i. For a sports pool, the total daily difference between ending cash on hand and starting cash on hand, less prizes paid by check.

~~i.~~j. For twenty-one, and paddlewheels described by subsection 2 of section 99-01.3-11-01, total ending cash on hand, plus drop box cash, less total starting cash on hand, for a day's activity.

~~j.~~k. For poker, total ending cash on hand, less starting cash on hand, less prizes paid by check, for a day's activity.

~~k.~~l. For calcuttas, total ending cash on hand, less starting cash on hand, prizes paid by check, and refunds to players, for the event.

~~l.~~m. For paddlewheels described by subsection 1 of section 99-01.3-11-01, total ending cash on hand, less starting cash on hand and prizes paid by check, for a paddlewheel ticket card.

~~8.~~9. "Conduct of games" means the direct operation of a game on a site, including placing pull tabs in, withdrawing currency from, and buying back redeemed winning pull tabs dispensed from a dispensing device~~. This term excludes a bar employee who redeems a winning pull tab or removes the seal on a prize board involving a dispensing device or who sells a raffle ticket or a sports pool chance on a board~~; and withdrawing currency from and buying back redeemed credit ticket vouchers dispensed from an electronic pull tab device.

~~9.~~10. "Deal" in pull tabs, including electronic deals means each individual game or series of pull tab packages which makes up a game with a specific form number and a unique serial number.

11. "Electronic pull tab game" means a game family with a common game name, theme, symbols, and ticket count which allows for a variety of price per play denominations and prize payouts under different form numbers.

~~10.~~12. "Employee" includes a person employed by an organization, an employee of a temporary employment agency who provides gaming-related services to an organization, and a volunteer of an organization.

~~11.~~13. "Flare" refers to a flare or master flare as follows:

a. Flare. A flare is a display with the state gaming stamp affixed which describes a punchboard, sports-pool board, calcutta board, deal of pull tabs, club special, tip board, prize board, seal board, and raffle board. The flare for a punchboard is its face sheet. A flare for a sports-pool board, calcutta board, prize board, club special, tip board, seal board, and raffle board is the game board.

b. Master flare. A master flare for a game of pull tabs is the same as a "flare" but it does not have a state gaming stamp affixed. A master flare for paddlewheels is described by subsection 1 of section 99-01.3-11-02.

~~12.~~14. "Gaming equipment" means a game piece or device specifically designed for use in conducting games, including integral components of a dispensing device such as a currency validator, processing board, EPROM microchip or other data storage device, attached bar code credit devices, and card shuffling devices. This includes all electronic pull tab operating systems and devices, electronic quick shot bingo operating systems and devices, electronic fifty-fifty raffle systems and devices, and their related hardware and software. The term excludes fill and credit slips, promotional paper bingo cards, bingo daubers, video surveillance equipment, jar bars, jar containers, poker tables, raffle drums, double admission tickets, table covers, dealing shoes, discard holders, plungers, shoe and card covers, chip spacers, and weight scales.

~~13.~~15. "Inside information" is any information about the status of a game when that game is conducted that may give a person an advantage over another person who does not have that information, regardless if the person uses or does not use the information, when providing that information is prohibited by the gaming law or rules. It includes information provided through written, verbal, or nonverbal communications that implies or expresses the number of unsold chances; relationship of a game's cash on hand to its ideal adjusted gross proceeds; number of unredeemed top tier or minor winning game pieces that is not posted, value of a hole card in twenty-one, number under the tape of a sports-pool board, or number under a seal.

~~14.~~16. "Organization" in reference to a local permit includes a "group of people" working together for a public-spirited cause.

~~15.~~17. "Player" is an individual who purchases a game piece or places a wager in a game of chance. An organization may not be a player in any games of chance the organization is conducting. A business that is not an organization with a gaming license or permit for the event, may purchase raffle tickets; however, an individual's name representing the business that bought the tickets must be recorded on the raffle ticket.

~~16.~~18. "Primary game" is the principal game conducted on a site. Determining factors include frequency of conduct, square footage used, duration of time conducted, and volume of activity.

~~17.~~19. "Retail price" means the purchase price paid by an organization, excluding sales tax.

~~18.~~20. "Volunteer" means a person who conducts games for no compensation. A volunteer may receive a gift not exceeding a total retail price of thirty dollars for a consecutive twenty-four-hour period, cash tips, and reimbursement for documented business expenses. No gift may be cash or convertible into cash. See definition of employee.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.

General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-02-02. Record check.

1. An organization or distributor may not employ a person as a temporary or permanent "employee" until the organization or distributor has initiated a record check on the person, the person has independently requested a record check from the bureau of criminal investigation within one year before employment, or a person is not required to have a record check according to subsection 4. However, an organization or distributor may temporarily employ a person pending the results of a record check.

2. An organization or distributor shall initiate a record check of a person by submitting a "request for record check" form to the attorney general within twenty-one calendar days of the first day of employment. If special circumstances exist, including an applicant residing out of state, the organization shall follow procedures prescribed by the attorney general. An organization or distributor may only request a record check of a person who has a written promise of employment or who is temporarily employed pending the result of the record check. A person shall attest to the accuracy of the information on the form and authorize the attorney general to release information on any criminal record found, including a copy of the bureau of criminal investigation's criminal history record information, to an organization or distributor which requested the record check.

3. An organization shall initiate a record check on employees at least every six years, commencing with the date of employment.

4. For the purpose of this section, the definition of an "employee" is:

   a. A person who directly operates games on a site;

   b. A person who is a shift or gaming manager;

   c. ~~A person who is employed by a bar that is not operated by an organization, and who is authorized by an organization under subsection 4 of section 99-01.3-12-02 to withdraw currency or a drop box from a pull tab dispensing device;~~

   ~~d.~~ A person who places a deal of pull tabs in a dispensing device, removes currency from ~~the~~a device, or reimburses a bar for redeemed pull tabs or credit ticket vouchers;

   ~~e.~~d. A person who is a member of a drop box cash count team; or

   ~~f.~~e. A person who directly sells or distributes gaming equipment for a distributor.

~~4.~~5. These employees of an organization are not required to have a record check:

   a. A volunteer, except a gaming manager or person who is a member of a drop box cash count team;

   b. An employee who is sixteen or seventeen years of age;

   c. An employee who has an expired work permit and who continues to be employed by the same organization or distributor that the person was employed by when the work permit expired;

   d. An employee who has had a record check done and, within one year of the record check, has become reemployed by the same organization or employed by a different organization, distributor, or bar than the person was employed by when the record check was done, and who provides the ~~notification copy of a "request for record check"~~

~~form~~results of the record check and, if applicable, a copy of the bureau of criminal investigation's criminal history record information, to the new employing organization, distributor, or bar; or

e. An employee, other than a gaming manager, who only conducts a calcutta, raffle, poker, or sports pool or is employed by an organization that conducts games on no more than fourteen days during a calendar year.

~~5.~~6. The attorney general may require fingerprints of a person. A local law enforcement agency may charge a fee for taking fingerprint impressions.

~~6.~~7. The fee for a record check is fifteen dollars and is not refundable. However, if a federal agency or local law enforcement agency has done a record check, the attorney general may waive the fee. The fee must be remitted by an organization, distributor, or person with the request form.

~~7.~~8. The attorney general shall ~~do~~conduct the record check and provide ~~a copy of the "request for record check" form~~the results to an organization or distributor which requested the record check and the person on whom the record check was done unless a federal or local law enforcement agency conducts a record check. This ~~copy~~notice must indicate whether a criminal record was found or not found. If a criminal record is found, the attorney general shall also provide an organization or distributor and person with a copy of the bureau of criminal investigation's criminal history record information. An organization or distributor shall review this report to determine whether a person is eligible for employment as an employee according to subdivision a or b of subsection 5 of North Dakota Century Code section 53-06.1-06.

~~8.~~9. If a person is not eligible for employment but has been temporarily employed pending the results of a record check, an organization or distributor, within five days of receiving the copy of the record check, shall terminate the person's employment. This period cannot be extended without consent of the office of attorney general.

~~9.~~10. An organization or distributor shall retain the ~~copy of a "request for record check" form~~results and criminal history record information from the federal or local law enforcement licensing document for the time period prescribed by federal law.

~~10.~~11. If a person, while employed by an organization or distributor, pleads guilty to or has been found guilty of a felony or misdemeanor offense referenced by subdivisions a and b of subsection 5 of North Dakota Century Code section 53-06.1-06, the person shall immediately notify the organization or distributor. Upon notification, an organization or distributor, within five days, shall terminate the person's employment unless the person received a deferred imposition of sentence or deferred prosecution and has fully complied with the terms of the deferral.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-02-05. Lessor and organization - Restrictions.

1. A lessor's employee who is not the lessor's spouse, lessor's common household member, management, management's spouse, or lessor's employee or agent who approved the lease may conduct games at that site, including accessing a dispensing device, as an organization employee:

   a. On a day when the employee is not working for the bar; or

b. On a day when the employee is working for the bar but is working in an area of the bar where alcoholic beverages are not dispensed or consumed.

2. No game may be directly operated as part of a lessor's business. However, a lessor may donate a gift certificate or cash or merchandise prize to an organization.

3. A lessor, lessor's spouse, lessor's common household member, management, management's spouse, officer, board of directors member, or, lessor's employee or agent who approved the lease, may not:

   a. Loan money or provide gaming equipment to an organization;

   b. Interfere with or attempt to influence an organization's selection of games, determination of prizes, including a bingo jackpot prize, disbursement of net proceeds, or influence the selection of a distributor to purchase gaming equipment from. However, a lessor may recommend an eligible use. If the lessor violates this rule, the attorney general may suspend any or all games at the site for up to six months;

   c. Conduct games at any of the organization's sites and, except for officers and board of directors members who did not approve the lease, may not play any game at the lessor's site;

   d. Require an organization's employee to assist, for or without compensation, in a lessor's business at the site. However, an organization's employee may voluntarily order drinks for customers; or

   e. Count drop box cash.

4. A lessor who is an officer or board member of an organization may not participate in the organization's decisionmaking that is a conflict of interest with gaming.

5. Only an organization or its employee that has received approval from the attorney general or follows guidelines prescribed by the attorney general may buy a gift certificate or merchandise as a gaming prize from a lessor, or buy merchandise, food, or alcoholic or nonalcoholic drinks from the lessor for the lessor's employees or patrons. An organization's employee may patronize a lessor in the normal course of a lessor's business.

6. An organization, employee, or bar may not give a free or discounted game piece, chip, or play of a game except for discounts allowed for bingo and raffle activity, or free or discounted alcoholic drink to a person to play a game. A lessor may at its own expense advertise gaming on promotional drink tickets.

7. Any advertising by the lessor, organization, or both, of lawful charitable gaming conducted by a licensed organization must include the gaming organization's name. An abbreviation of the organization's name may be used.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-02-06. Rental agreement.

1. A rental agreement must be signed and dated by a lessor and organization.

2. An agreement must contain:

a. Term of the agreement which must be on a fiscal year basis from July first to June thirtieth or, if a site authorization is for a shorter period, the term is for the shorter period. Except for a site where bingo is the primary game, an agreement may not exceed five years;

b. Monetary consideration;

c. The inclusion of this statement with proper selections made:

"The lessor agrees that the (lessor), (lessor's) spouse, (lessor's) common household members, (management), (management's) spouse, or an employee of the lessor who is in a position to approve or deny a lease may not conduct games at any of the organization's sites and, except for officers and board of directors members who did not approve the lease, may not play games at that site. However, a bar employee may redeem a winning pull tab, redeem a credit ticket voucher, pay a prize board cash prize, and award a prize board merchandise prize involving a dispensing device and sell raffle tickets or sports pool chances on a board on behalf of an organization";

d. If an organization provides a lessor with a temporary loan of funds for redeeming winning pull tabs or for paying prize board cash prizes involving a dispensing device, a statement that the lessor agrees to repay the entire loan immediately when the organization discontinues using a device at the site; and

e. Statements that:

(1) Bingo is or is not the primary game conducted;

(2) Twenty-one or paddlewheels, or both (involving a playing table), is or is not conducted and the number of tables on which the rent is based, including the number of tables on which a wager over five dollars is accepted;

(3) Pull tabs is or is not conducted ~~and~~ with or without a dispensing device and number of electronic pull tab devices for use;

(4) The rental agreement is automatically terminated, at a lessor's option, if an organization's license is suspended for more than fourteen days or revoked; ~~and~~

(5) An oncall, temporary or permanent employee, except a bar employee defined by subsection 3 of section 99-01.3-02-01 will not, directly or indirectly, conduct games at the site as an organization employee on the same day the employee is working in the area of the bar where alcoholic beverages are dispensed or consumed;

(6) A raffle drawing will or will not be conducted at the site;

(7) Prize boards involving a dispensing device will or will not be conducted at the site;

(8) The lessor agrees no game will be directly operated as part of the lessor's business;

(9) The lessor agrees not to interfere with or attempt to influence the lessee's selection of games, determination of prizes, including a bingo jackpot prize, or disbursement of net proceeds;

(10) The lessor agrees not to loan money to, provide gaming equipment to, or count drop box cash for the lessee; and

(11) The lessor agrees any advertising by the lessor that includes charitable gaming must include the charitable gaming organization's name. An abbreviation of the organization's name may be used.

3. Rent must be a fixed dollar amount per month.

   a. A participatory or graduated rate arrangement based on gross proceeds or adjusted gross proceeds is prohibited.

   b. If bingo is the primary game or if a site is leased by an organization that has the alcoholic beverage license for that site, the monthly rent must be reasonable. Factors include time usage, floor space, local prevailing rates, and available sites and services. An organization may pay seasonal expenses, such as snow removal, air-conditioning, and heating, to a vendor.

   c. If bingo is not the primary game, the maximum monthly rent must be according to subsection 5 of North Dakota Century Code section 53-06.1-11. Special considerations are:

      (1) If two or more organizations conduct twenty-one or paddlewheels, or both, involving a table and pull tabs for less than a month at a temporary site which is a public or private premise, or if two or more organizations are issued site authorizations to conduct games at a site on different days of the week, the maximum monthly rent, in the aggregate, may not exceed the limit set by subsection 5 of North Dakota Century Code section 53-06.1-11; and

      (2) If a raffle, calcutta, sports pool, or poker is conducted with twenty-one, paddlewheels, or pull tabs, no additional rent is allowed.

   d. Except for applying subsection 3 or 4 of section 99-01.3-03-04, and additional rent paid to a lessor for simulcast racing, an organization or employee may not pay any additional rent or expense, from any source, or for any other purpose, including office or storage space, snow removal, maintenance or cleaning fees, equipment, furnishings, entertainment, or utilities. Except for a leased site at which bingo is the primary game conducted, an organization may not pay for any capital or leasehold improvements or remodeling.

4. If there is a change in the monthly rent or any other material change to a rental agreement, the agreement must be amended and a copy received by the attorney general before its effective date.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06, 53-06.1-07.4

99-01.3-02-08. Currency of play, credit play, and borrowing from gaming funds.

1. Play of a game must be in United States currency. Play of a game must be on a cash basis. An organization may, by policy, accept checks and allow the use of debit cards. No credit may be extended to a player, including payment by credit card. The consideration to play a game must be paid before play. An employee may not loan money to a player, accept a postdated check, allow a player to alter a check, permit a player to establish an account by depositing cash for making periodic withdrawals, or any similar practice. An organization may allow a player to buy back a check with cash and may return a player's check to the player as part of a prize payout but may not unnecessarily delay the bank deposit of that check.

2. An employee may not borrow gaming funds as a personal loan or substitute a personal check for gaming funds.

History: Effective May 1, 1998; amended effective July 1, 2000; October 1, 2006; July 1, 2018.

General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-02-09. Persons restricted from playing games.

1. An employee who is a shift or gaming manager may not play any game at any of the organization's sites. An employee who services a pull tab or prize board dispensing device, or electronic pull tab device may not play the device at that site.

2. An employee may not play any game while on duty, except a volunteer may participate in a raffle. For the game of bingo, 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 also play bingo while on duty.

3. An employee may not play pull tabs or prize boards, including through a dispensing device, electronic pull tab device, tip board, club special, or punchboard until after three hours of active play have occurred since the employee went off duty at that site. "Active" play means that a game has been available for play. A player may not provide and an employee may not accept an unopened pull tab as a tip.

4. An employee may play twenty-one while off duty at organization sites only on tables that have the activity recorded by video surveillance.

5. A bar employee may not play pull tabs or prize boards, which involve a dispensing device, or electronic pull tabs while on duty. A bar employee may play pull tabs or prize boards, involving a dispensing device, or electronic pull tabs while off duty after three hours of active play have occurred since the bar employee went off duty at that site, unless otherwise prohibited by subdivision d of subsection 3 of section 99-01.3-02-05.

6. An employee or bar employee taking a temporary break is still considered on duty.

7. If an organization allows an employee to play games at its site, it shall post or make available to players the policy at that site.

8. A shift manager may not permit and an employee may not allow an employee's common household member, spouse, child, parent, brother, or sister, at a site, to:

   a. Play pull tabs of a game while the employee is on duty as a jar operator for that game, regardless if the employee takes a temporary break or rotates to conduct another game. This rule also applies to an employee who conducts pull tab or prize board dispensing device activity; or

   b. Play twenty-one or paddlewheels at a table when the employee is dealing or is a wheel operator at that table.

9. An organization may prohibit a person from playing games at a site.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-02-11. ~~Independent contractor services restricted~~Outside service provider restrictions.

Only an organization member, employee, including an employee of a temporary employment agency, or member of an auxiliary to an organization may manage, control, conduct games, or have sole direct access to gaming assets. An organization may have an ~~independent contractor~~outside service provider, including another organization, provide specific gaming-related services. All accounting records and played games shall be stored by the organization. The organization shall ensure that the ~~independent contractor~~outside service provider complies with the gaming law and rules and may allow assistance with the following:

1. Perform audit services, including auditing closed games and daily activity, do interim audits of games, verify bank deposits, and reconcile inventory of gaming equipment and cash banks;

2. Perform accounting and bookkeeping services, including recording receipts and disbursements, processing payroll and payroll reports, reconcile bank statements, write checks, and prepare budgets, financial statements, and tax returns. However, an ~~independent contractor~~outside service provider may not have signatory authority of a bank account;

3. ~~Train personnel how to conduct games and operate a dispensing device;~~

~~4. Repair and store a dispensing device;~~

~~5.~~ Access~~, store,~~ and review recorded video;

~~6. Store records and played games;~~

~~7.~~4. Take a locked bank bag or locked drop box to a financial institution provided the independent contractor has no access key; and

~~8.~~5. An ~~independent contractor~~outside service provider that is a security company, security agency, accounting firm, or financial institution may count drop box cash.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2004; October 1, 2006; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-02-13. Denial, suspension, or revocation of a license.

1. The attorney general may deny, suspend, or revoke a license or a permit of an organization, distributor, or manufacturer ~~when the applicant or licensee has~~:

   a. When the applicant has:

      (1) Violated, failed, or refused to comply with any provision of the gaming law or rules or any other law of North Dakota or has knowingly allowed, caused, aided, abetted, or conspired with another person to cause the person to violate any provision of the gaming law or rules or any other law of North Dakota;

      ~~b.~~ (2) Falsified information on a license application or obtained a license by fraud, misrepresentation, concealment, or mistake;

      ~~c.~~ (3) Denied the attorney general access to a site or manufacturing facility, or failed to timely provide information requested or required by the attorney general, gaming law, or rules;

      ~~d.~~ (4) Misrepresented, or failed to disclose, a material fact to the attorney general; or

~~c.~~ (5) Engaged in any act or practice to defraud or cheat a person, or has used a device or scheme to defraud a person.

b. If the attorney general, for any reason, deems it to be in the public interest, such reasons include cases wherein the applicant or licensee, or any person with a "substantial interest" therein:

(1) Has previously conducted illegal gambling or gaming activity in any jurisdiction;

(2) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level in any jurisdiction;

(3) Possesses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by:

(a) Prior activities;

(b) Criminal record;

(c) Reputation;

(d) Habits;

(e) Associations; or

(f) Knowingly provides or has provided goods or services to an entity that illegally operates gambling activities.

2. Upon revocation of a license, an organization, distributor, or manufacturer shall return the license and, if applicable, site authorization to the attorney general.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-03, 53-06.1-14, 53-06.1-16

CHAPTER 99-01.3-03

99-01.3-03-01. Accounting records and system of internal control.

1. An organization shall retain purchase invoices, receipts, accounting and bank records, including receipts documenting eligible uses and solicitations for net proceeds, for three years from the end of the quarter in which the activity was reported on a tax return, unless otherwise provided by rule.

2. A governing board of the organization shall establish a written system of internal control, comprised of accounting and administrative controls. An organization may not permit any unauthorized person as determined by the governing board from reviewing this system. If the attorney general determines that a system of internal control is inadequate, an organization shall address the inadequacy. This subsection does not apply to an organization that ~~has gross proceeds of twenty-five thousand dollars or less,~~ only conducts a calcutta, raffle, sports pool, paddlewheel described by subsection 1 of section 99-01.3-11-01, or poker, or is involved only in conducting no more than two events during a fiscal year of July first through June thirtieth and each event lasts no more than fourteen calendar days.

3. Accounting controls must include procedures and records that achieve these objectives:

   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; and

   d. Assets recorded on records are periodically compared to actual assets and any differences are resolved.

4. Administrative controls must describe the interrelationship of employee functions and their division of responsibilities.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-03-02. Gaming account.

1. An organization shall maintain all gaming accounts at financial institutions located in North Dakota. These accounts must be used for depositing gaming funds and transferring net proceeds to a trust account, except as provided by subsection 3. All gaming prizes paid for by check, including cash and merchandise, must be paid from the gaming account. Transfers must be made by the last day of the quarter following the quarter in which the net proceeds were earned. The transfer date is the date the funds actually are received in the trust fund. The amount transferred must be for an amount equal to or greater than the adjusted gross proceeds, less gaming taxes, and less the greater of actual or allowable gaming expenses for the quarter. The gaming account may be used for payment of expenses. An organization may transfer funds to its general account for payment of expenses. If an organization is not required to maintain a trust account, a disbursement of net proceeds to an eligible use must be payable to the ultimate use or recipient. A payment may be made by electronic transfer.

2. Interest earned is other income. A service fee is an expense.

3. Organizations shall reimburse the gaming account as required by section 99-01.3-03-05 and may deposit raffle nongaming funds, bingo dauber receipts, fees from players who use bingo card marking devices, and prizes paid by an insurance company to an organization for payment to a player. Any additional deposit of nongaming funds into a gaming account must be communicated to the attorney general within five business days of the deposit.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-11

99-01.3-03-03. Trust account.

1. An organization shall maintain all trust accounts at financial institutions located in North Dakota. If an organization only conducts a calcutta, raffle, sports pool, paddlewheel described by subsection 1 of section 99-01.3-11-01, or poker or a combination of these games, or is involved in conducting no more than two events during a fiscal year and each event lasts no more than fourteen calendar days, an organization is not required to maintain a separate trust account and may use the gaming account for the disbursement of eligible uses. Trust accounts are used only to disburse net proceeds to eligible uses and must receive only funds from a gaming account, except to reimburse the account as required by section 99-01.3-03-05 and as provided by subsections 5 and 13 of section 99-01.3-14-01. Interest earned and service fees incurred by trust checking and savings accounts must be reported as adjustments to the trust account on a tax return. A transfer of net proceeds to another trust account or to a closely related organization is not a disbursement of net proceeds. Net proceeds cannot be pledged as collateral for any loan.

2. An organization shall disburse net proceeds within a reasonable time period.

3. An organization may not transfer funds from a trust account to any other bank account, except for transferring funds to another trust account or to reimburse its general account for compensation that qualifies as an eligible use. A reimbursement must be documented by a supporting schedule. If a disbursement of net proceeds is for an expense item that includes both nongaming (an eligible use) and gaming functions, only the nongaming eligible use portion can be paid with trust account money. The organization shall maintain complete, accurate, and current documentation detailing the proration of the expense between nongaming and gaming. A disbursement must be payable directly to the ultimate use or recipient. However, an organization may make a payment directly to a credit card company for charges on a credit card provided that an organization can identify purchases that qualify as an eligible use from other purchases. A payment may be made by electronic transfer.

4. If an organization invests net proceeds in a certificate of deposit, bond, stock, mutual fund, or other marketable securities, all income earned, including interest, dividends, and capital gains, must be reported each quarter as ~~an~~a positive adjustment on a tax return and be disbursed to an eligible use. If the net effect of the investment in marketable securities results in an actual loss, the organization may not deduct the loss on a tax return. A service fee is an adjustment to the account's balance. ~~The organization shall submit a copy of the marketable securities statements for each quarter with its tax return.~~

5. If an organization invests net proceeds in marketable securities with the intent to maintain the investment for a period of three years or greater and no change is made to the original investment amount, either additions to or withdrawals from, the organization may choose to account for and report any earned income, including capital gains, on a tax return after each three-year period instead of each quarter. If additions are made to or withdrawals are made from the original investment amount before a three-year period ends, the organization shall account for and report any earned income, including capital gains, on the tax return for the

quarter in which the change was made to the original investment amount. If the net effect of the investment results in an actual loss, the organization may not deduct the loss on the tax return. Service fees incurred during the reporting period are an adjustment to the account's balance. ~~The organization shall submit a copy of the marketable securities statements for each quarter with its tax return.~~

6. For reporting purposes, an organization may elect to report the gain in market value of the accounts outlined in subsection 4 and 5. Adjustments can be made for decreases in market value; however, such decreases cannot reduce the account's value below its adjusted basis. Electing to report securities at market value must be consistently applied each quarter.

7. The organization shall submit a copy of the marketable securities statements for each quarter with its tax return and shall submit a copy of its annual 1099 received for all marketable securities accounts each year with the tax return filed for the quarter ending March thirty-first.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-03-04. Restrictions and requirements.

1. An organization is allowed an expense limit according to subsection 2 of North Dakota Century Code section 53-06.1-11. The allowable expense amount may be used for any purpose that does not violate the gaming law or rules.

2. An organization may not base an employee's compensation on a participatory percentage of gross proceeds, adjusted gross proceeds, or net proceeds. An organization may pay a fixed bonus through an incentive program.

3. An organization may not pay or reimburse, nor may a lessor accept a payment or reimbursement from an organization, for any media advertising done by the lessor or any other person that is related to games at a site unless the organization's share of this expense is prorated to the benefit the organization receives and the media advertising is voluntary by the organization.

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 not owned by the lessor. If a lessor rents an advertising sign from a vendor, the organization's share of this expense must be prorated to the benefit the organization receives and the sign advertising is voluntary to the organization.

5. A player's uncollectible check is an expense. If an organization establishes a policy to reduce a player's cash prize by the amount of the player's uncollectible check and award the player the difference, if any, the organization shall post or make available to players that policy.

6. If a door prize is awarded as a promotion of games, the cost of the door prize is an expense.

7. A net cash short is an expense and a net cash long is other income for a quarter.

8. Only an unopened pull tab, including unplayed electronic pull tabs, unopened set of stapled jar tickets, or set of banded jar tickets that has the band intact may be accounted for as unsold or defective when a game is reported on a tax return. An organization shall account for any single unsold or defective jar ticket at a proportional selling price of a stapled set of jar tickets.

9. If foreign currency is exchanged into United States currency, any loss is an expense.

10. The attorney general shall determine whether a theft of an organization's gaming funds can be deducted from gross proceeds and adjusted gross proceeds on its tax return and notify the organization. The attorney general shall consider whether the organization:

    a. Immediately reported the theft to a local law enforcement agency and the attorney general;

    b. Has documentation that substantiates the theft amount;

    c. Had physical security of the funds;

    d. Has an adequate system of internal control; and

    e. Incurred an identifiable theft.

11. If an organization rents out gaming equipment, the income is nongaming income.

12. All accounting records must be completed and initialed or signed with permanent ink. The use of correction fluid or correction tape to make changes to accounting records is prohibited. Changes must be made with a single strikethrough of the original amount, writing the correct amount, and initialed by the individual making the change. An organization shall maintain a register of all individuals who initial or sign a record or report, including independent contractors who provide auditing, accounting, and bookkeeping services. Any financial institution employee who provides drop box cash count services is not required to be included on the register; however, the financial institution employee shall legibly sign their full name on the daily report when providing drop box cash count services. The register must include each individual's name and the initials or signature as the individual normally writes them on a record or report. The initials or signature of an individual on a record or report attests that to the individual's best knowledge the information is true and correct.

13. The fees charged to players to enter a twenty-one tournament and the prizes awarded, must be reported as other income on a tax return.

14. For computing prizes on a tax return, a merchandise prize and a gift certificate are valued at an organization's actual cost, including sales tax, and a donated prize is valued at zero.

15. An organization shall own and possess, have a contract to acquire, or be able to obtain a prize being offered for a game. A winning player may not be required to first pay for or buy something to receive a prize. However, an organization does not need to register or title an automobile or similar item.

16. If a prize winner is ineligible to receive a merchandise prize, the organization may convert the prize to a cash prize or other ~~fair alternative~~merchandise prize of at least equal value, provided that the conversion of a raffle prize does not exceed the limits outlined in North Dakota Century Code section 53-06.1-10.1.

17. If a gaming prize is not claimed by the winning player and has previously been reported on a tax return, an organization shall amend the applicable tax returns to account for the unredeemed prize.

18. When a deal of pull tabs, club special, tip board, seal board, raffle board, prize board, sports-pool board, calcutta board, or a series of paddlewheel ticket cards is placed in play, an employee shall compare the game serial number on the pull tab, board, or card to the serial number on the state gaming stamp. If the two serial numbers are different, an employee shall immediately notify the distributor.

19. If an organization pays a fee to an insurance company to insure a contingency cash or merchandise prize for bingo or a raffle, the fee is an expense. If the insurance company pays or provides a prize to a winning player, it is not reported as a prize on a tax return.

20. If an organization conducts twenty-one, it may pay monthly rent for more than one table provided that each additional table is used at least thirteen times a quarter. This level of activity is based on a site's historical experience, or seasonal activity, for each of the previous four quarters, regardless of which organization conducted twenty-one at the site. For a new site or a site that has been completely remodeled in appearance and function, the level of activity must be reviewed and or reestablished after the first full quarter. If an additional table is used at least thirteen times in at least one but not all of the previous four quarters, the allowable monthly rent for that table must be prorated over all the active months of the licensing year. For example, if a second table was used at least thirteen times in only two of the previous four quarters, the additional monthly rent for the second table would be a maximum of two hundred dollars per month (or three hundred dollars per month if a wager greater than five dollars is accepted on the table) multiplied by six months (totaling one thousand two hundred dollars) and prorated to one hundred dollars per month for the licensing year.

21. If an organization temporarily releases its site authorization to allow another organization to conduct gaming at a site, the primary site holder shall provide the temporary organization with a signed statement of site release, include the duration which it is valid, and provide a copy to the attorney general's office at least fourteen days prior to the site release.

22. If an organization does not intend to reapply for a license for the next fiscal year, its license is revoked or suspended for a period of more than six months, or its license application is denied, and it has net proceeds that are not disbursed, the organization shall file an action plan with the attorney general. The plan must be filed within thirty days of the expiration of the license or when the license is relinquished, revoked, suspended, or the license application is denied, and include a planned timetable for disbursing all the net proceeds and anticipated uses.

    If the action plan is not timely filed, net proceeds must be disbursed within ninety days of the expiration of the license or when the license is relinquished, revoked, suspended, or the license application is denied. The disbursement must be reported to the attorney general.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06, 53-06.1-11

99-01.3-03-06. Gross proceeds, IOUs, documenting cash and chip banks.

1. Gross proceeds for a game must be separately maintained while the game is conducted. An organization shall use a separate cash bank for each game. However, ~~the~~for electronic pull tab device activity, the organization shall use one cash bank for all electronic pull tab games conducted at the site by the same manufacturer. The cash banks for twenty-one, and paddlewheel activity described by subsection 2 of section 99-01.3-11-01, may be combined and the cash banks for pull tab games at a site may be combined, if approved by the attorney general. If an employee needs to establish or replenish a cash bank by withdrawing funds from the gaming account, the employee shall execute a withdrawal by check or other withdrawal method and reference the specific game's name, other game type, or the combined cash bank. If a cash bank needs replenishment and another specific game or other game type's cash bank, cash reserve bank, or other funds from nongaming sources are used, an IOU form must be used to record the loan and payback. An IOU form must include:

a. The source and destination of the funds;

b. For a club special, prize board, tip board, seal board, raffle board, sports-pool board, series of paddlewheel ticket cards, and punchboard, the game's gaming stamp number;

c. Amount and date of loan and repayment; and

d. Initials of a cash bank cashier or an employee for each transaction.

2. An organization shall document each bingo session's and each game's daily starting and ending cash on hand, including a cash reserve bank. Unless there is only one employee on duty when a site opens or closes, two persons shall participate in the cash count in the presence of each other. After completing and documenting the cash count, both persons shall initial the record.

3. An organization shall document the daily starting and ending chip banks for casino and betting chips, including on the date of a poker occasion ~~and the~~, an organization's no-value poker chips. The chip banks for twenty-one and paddlewheel activity described by subsection 2 of section 99-01.3-11-01, may be combined. Unless there is only one employee on duty when a site opens or closes, two persons shall participate in the count of the chips in the presence of each other and record the count by denomination of chip or total quantity of no-value chips. After completing and documenting the chip count, both persons shall initial the record.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-03-07. Prize register.

For a bingo session, raffle drawing, sports-pool board, calcutta board, paddlewheel excluding the use of a table, and twenty-one or poker tournament, an employee shall legibly print this information on a prize register or similar document when a prize is issued to a player:

1. Name of the site;

2. Game type:

a. Bingo - Date of the session and game number.

b. Raffles - Date of the drawing, winning ticket number, gaming stamp number (if applicable), and initials of two employees who conducted the drawing unless the initials are on another document.

c. Sports pools - Date of the sports event, winning score, and gaming stamp number.

d. Twenty-one or poker tournament - Date of the tournament.

e. Calcutta - Date of the sports event and gaming stamp number.

f. Paddlewheel excluding the use of a table - Date of the event, card number, winning ticket number, and gaming stamp number;

3. Amount of a cash prize or a description, cost, and retail price of a merchandise prize;

4. ~~Name~~Full name of player and for a bingo prize exceeding one hundred dollars, signature of player;

5. Total amount of cash and cost of merchandise prizes awarded; and

6. Initials of preparer.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-03-08. Record of win.

1. An employee shall prepare a record of win if a player wins a last sale prize, a seal prize, a cash prize greater than ~~two~~five hundred dollars, a merchandise prize that has a retail price exceeding ~~two~~five hundred dollars, or a donated merchandise prize with a fair market value exceeding ~~two~~five hundred dollars, or wins a cash prize but receives a partial payout of the prize in cash and the remainder by check. If a pull tab has two or more winning prize patterns, the requirement is based on the value of each prize pattern. A record of win must be completed for the total prize even if a player splits the prize with another person. The record may be a check drawn from the gaming account, a numbered receipt, or the flare of a sports-pool board, calcutta board, club special, tip board, prize board, punchboard, seal board, raffle board, or winning bingo card. A bar employee shall print this information on a receipt or an employee shall print this information on a check, receipt, flare, or card unless it is already provided:

   a. Name of the site;

   b. Game type and, by game type:

      (1) Bingo - Date of the session, game number, cash prize amount or description of a merchandise prize and retail price, and date of prize payout if different from the date of the session.

      (2) Raffles - Date of the drawing, winning ticket number, gaming stamp number (if applicable), cash prize amount or description of a merchandise prize and retail price, and date of prize payout if different from the date of the drawing.

      (3) Pull tabs and prize boards, including a dispensing device, punchboards, club special, tip board, and seal board - Name of the game, cash prize amount or description of a merchandise prize and retail price, date of activity, and gaming stamp number. For a game with a last sale prize or a seal prize, the gaming stamp number ~~should~~must correspond with the respective deal's flare.

      (4) Sports pools - Date of the event, cash prize amount, date of prize payout, and gaming stamp number.

      (5) Twenty-one or poker tournament - Date of the tournament, cash prize amount, or for twenty-one tournaments only, description of a merchandise prize and retail price.

      (6) Calcuttas - Date of the event, cash prize amount, date of prize payout, and gaming stamp number;

   c. A player's full name and address:

      (1) If the player is present but not personally known by a bar employee or an employee, this information must be recorded from a pictured driver's license or tribal, government, or military identification;

(2) If the player is present but does not have one of these pictured identifications, a bar employee or an employee shall record the player's full name from another form of identification or mail the prize to the player; or

(3) If the player is not present, verification of this information is not required and the prize must be mailed; and

d. Initial of a bar employee or an employee.

2. After a record of win is completed at a site, a player shall sign and date it. However, this rule does not apply to a prize mailed to a player.

3. Unless a prize is for a last sale prize feature, a bar employee or an employee shall print, in ink, the check or receipt number on a pull tab or punchboard punch.

4. A player who has actually won a prize shall claim the prize. A bar employee or employee may not falsify or permit a player to falsify a record of win or enable a player to conspire with another person to have the other person claim a prize. If a bar employee or employee determines that a player has falsified or attempted to falsify a record of win before the prize payout, the bar employee or employee shall deny the player the prize and notify the attorney general and local law enforcement agency.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-11

99-01.3-03-09. Inventory records of games, paper bingo cards, tickets, cash banks, and chips and reconciliation.

1. An organization shall maintain master and site inventory records of all deals and games that have a state gaming stamp affixed to their flares. The master records must include the sales invoice number, date received, name of game, dates of issuance to and received from a site, site name, date deal was placed, date game (that the deal was played as part of) was closed, and quarter the deal was reported on the tax return, by gaming stamp number. The site records must include the gaming stamp number, date received, date placed, and date game (that the deal was played as part of) was closed, by site and name of game. If an organization has only one site where inventory is stored, it may combine the master and site inventory records. Annually an organization shall reconcile its inventory records of 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 the items that are actually in play and in inventory. This includes all games and deals that have not been reported on a tax return. A person who does not have sole access, shall count these items that are actually in play and in inventory, compare this count to the inventory records, and resolve any difference.

2. An organization shall maintain inventory records for all electronic pull tab deals played or in play for an electronic pull tab game. The records must be reportable by site and game and include, name of game, state gaming stamp number, game serial number, cost per play, ticket count, ideal gross proceeds, ideal prizes, ideal adjusted gross proceeds, date placed, and date game that the deal was played as part of was closed.

~~2.~~3. An organization shall maintain master and site inventory records of paper bingo cards. The master records must include for each primary color and type of card, the sales invoice number, date received, number of cards bought, serial number (optional), dates of issuance to a site, site name, and quantity of cards issued to the site, or include information prescribed by a method approved by the attorney general. If an organization has only one site where

inventory is stored, it may combine the master and site inventory records. The site records for each series must include site name, primary color and type of card, serial number (optional), quantity received, date received, and quantity issued and returned for each session, or include information prescribed by a method approved by the attorney general. Annually an organization shall reconcile its inventory records of paper bingo cards that are recorded as being in inventory to the cards that are actually in inventory. A person who does not have sole access, shall count these items that are actually in inventory, compare this count to the inventory records, and resolve any difference.

~~3.~~4. An organization shall maintain master and site inventory records of rolls of tickets. The master records must include for each ticket roll the color of the roll, date received, beginning ticket number, ending ticket number, number of tickets bought, date of issuance to a site, and site name, or include information prescribed by a method approved by the attorney general. If an organization has only one site where inventory is stored, it may combine the master and site inventory records. The site records must include site name, color of roll, beginning ticket number, ending ticket number, quantity received, date received, and quantity issued and returned for each session or event, or include information prescribed by a method approved by the attorney general. Annually an organization shall reconcile its inventory of tickets. This reconciliation must include verification of the starting ticket number and total number of remaining tickets that are recorded as being at the home office and site to the tickets that are actually on hand. A person who does not have sole access, shall count the tickets at the home office and site, compare this count to the inventory records, and resolve any difference.

~~4.~~5. An organization shall maintain a master record of ideal cash bank amounts and account for permanent increases or decreases. For each cash bank, the record must include the site, game type, game identifier, and amount. When a cash bank is started or when the ideal amount is permanently increased or decreased, the date, check number, amount, source or destination of the funds, and updated ideal cash bank amount must be recorded. Annually an organization shall reconcile its master cash bank records to the actual cash banks. A person who does not have sole access, shall count the cash banks, compare the count to the current ideal cash bank amount recorded on the record, and resolve any difference.

~~5.~~6. An organization shall maintain casino and betting chip master and site inventory records. The records must include the dates chips are acquired, transferred to, and received from a site and running totals, by value of chip. Annually an organization shall reconcile its inventory of chips that are recorded as being at the home office and site to the chips that are actually in inventory. If an organization has only one site where inventory is stored, it may combine the master and site inventory records. A person who does not have sole access, shall count the chips in inventory at the home office and site, compare this count to the inventory records, and resolve any difference.

~~6.~~7. The count and reconciliation must be done by a person who does not have sole access to deals, games, paper bingo cards, rolls of tickets, cash banks (and who does not have sole signatory authority of the gaming account), or chips. It must be documented, including the name and title of the person who does the count and reconciliation, date and procedure performed, result, corrective action taken, and initials of that person.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-03-10. Bank deposit and audit.

1. The cash profit, less a documented increase or plus the decrease in the starting cash on hand for the next gaming activity, plus cash and merchandise prizes paid by check and cost of coins

for a prize board, must be deposited in the gaming account by the third banking day following the day of a bingo session or electronic quick shot bingo session; club special, prize board, tip board, seal board, or punchboard is removed from play; sports-pool game; calcutta event; raffle board event, poker occasion; day's or interim period's pull tab and prize board, and twenty-one or paddlewheel activity. However, the receipts for a raffle, calendar or master sports-pool board, or paddlewheel described by subsection 1 of section 99-01.3-11-01 must be deposited in the gaming account by the third banking day following receipt of the cash by the person responsible for the activity.

2. For a day's pull tab activity, bingo session, electronic quick shot bingo session, raffle drawing, poker occasion, twenty-one and paddlewheel activity, and interim period's pull tab or prize boards activity involving a dispensing device, a deposit slip must reference a site, name of the game, game type, date of activity, and deposit amount. For an interim period deposit for electronic pull tab activity, the deposit slip must reference a site, game type, date of activity, and deposit amount. The deposit amount for twenty-one and paddlewheel activity described by subsection 2 of section 99-01.3-11-01, may be combined. For a club special, prize board, tip board, seal board, punchboard, and series of paddlewheel ticket cards, a deposit slip must reference a site, name of the game, game type, date removed from play or date of activity, deposit amount, and gaming stamp number. For a sports-pool board, raffle board, or calcutta board, a deposit slip must reference a site, date of the event or auction, deposit amount, and gaming stamp number. For all game types, an employee who prepares a deposit shall initial the bank deposit slip. If another employee makes the bank deposit and has access to the cash, the employee shall also initial the bank deposit slip.

3. If a deposit slip is prepared for more than one game or game type, the deposit slip or supporting schedule must include the information required by subsection 2 for each game or game type. A supporting schedule must reconcile to a validated bank deposit receipt.

4. For a bank deposit, a person shall record the amount to be deposited on the game's accounting record and retain a copy of the bank deposit slip and any supporting schedule. This person shall forward the accounting record, copy of the bank deposit slip, and any supporting schedule to a bookkeeper. A second person shall take custody of the bank deposit funds and the original of the bank deposit slip and take them to a financial institution or arrange for the funds to be deposited. If, before the bank deposit is made, the custody of bank deposit funds is transferred from a person to another person, face-to-face, and the cash is accessible to be counted, both persons shall participate in a count of the cash in the presence of each other and resolve any difference. After completing and documenting the cash count, both persons shall initial and date the original of the bank deposit slip. The person who makes the bank deposit shall forward the validated bank deposit receipt to a bookkeeper. A validated bank deposit receipt, copy of the bank deposit slip, and any supporting schedule must be included with the accounting records. An organization shall comply with this rule unless it uses another bank deposit procedure which has proper accounting control.

5. If an employee prepares or has custody of a bank deposit which is not scheduled to be immediately deposited, the employee shall safeguard the funds.

6. An employee who did not have access to the cash to be deposited shall, within a reasonable time, verify that the amount recorded on a daily or interim accounting record to be deposited was actually deposited according to a bank statement. The employee shall document the verification by initialing the accounting record and dating it. If more than one deposit amount is recorded on an accounting record, the employee shall initial the record for each verified deposit amount and date the record.

7. A closed game or daily activity must be audited, within a reasonable time, by a person who did not conduct the game, have sole access to the games in play, and who did not have sole

access to the total receipts or cash profit for the game's or day's activity. This person may not have sole signatory authority of the gaming account or sole electronic access to the gaming account other than to view account information and may not make electronic deposits, withdrawals, or transfers into or out of the account. A person who audits a closed game or daily activity shall verify the number and value of unsold chances, gross proceeds, number and value of prizes, adjusted gross proceeds, and cash profit. If the audit reveals an irregularity, the person shall notify the appropriate organization representative.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-04-03. Conduct and play.

1. The following rules, information, and policies must be posted or made available to players. If made available to players, the rules, information, and policies must be in the form of a handout that is easily visible to the players and may not be a copy of the gaming law and rules:

   a. A person may not separate a paper card when there are two or more faces on a sheet;

   b. A person under eighteen years of age may not play bingo unless 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. This rule does not apply if a person under twenty-one years of age is not allowed on the site or an organization has a permit or prize structure that does not exceed the limit of a permit;

   c. If an organization does not restrict duplicate paper cards from being in play for a game, it shall post or make available that information to all players before their purchase of cards or packages;

   d. The actual letter and number on a ball drawn or freely awarded is official;

   e. If a person knowingly uses a fraudulent scheme or technique to cheat or skim involving bingo, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both;

   f. A bingo card is void if it is taken outside the gaming area;

   g. If a player attempts to falsify or falsifies a record of win, the prize is forfeited;

   h. A policy of when an organization may cancel a bingo session;

   i. A policy that if a player has more than one bingo on one card or on two or more cards for a game, whether it is considered as one bingo or more than one bingo for splitting a prize with another winning player;

   j. A policy that a bingo is timely called by a player when, on the last number called, the player calls the word "bingo" or other required word before the bingo caller announces the whole letter and number of the next ball to be called, or other policy;

   k. A policy on sharing a prize by two or more winning players on identically or differently priced cards. A policy must include the following except that an organization may award a minimum prize:

      (1) If a prize is cash and all winning players bingo on identically priced cards, the cash prize must be divided equally. An organization may round fractional dollars.

      (2) If a prize is cash and the winning players bingo on differently priced cards, an organization shall award each winning player:

         (a) The designated prize;

         (b) An equal share of the designated prize; or

         (c) A proportional part of the designated prize for that card or any other fair method. The proportional part is the ratio that each winning player is in relation to the total number of winning players. 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.

(3) If a prize is merchandise and it cannot be divided, an organization shall do one of these options which must be disclosed in the bingo program or promotional material or announced before the bingo session:

(a) Award each winning player a substitute merchandise prize, which must be of ~~at least~~ equal value, and the total value of all substitute merchandise prizes awarded must at least total the retail price of the original prize. A merchandise prize may be redeemable or convertible into cash at an organization's option;

(b) Award a certain cash split amount that totals the retail price of the original prize; or

(c) Conduct a continuous or separate playoff game between the winning players;

l. A policy that a player may or may not use a bingo card marking device and play additional paper bingo cards at the same time; and

m. A policy that a player may or may not share the player's bingo package with another player.

2. An organization shall make these announcements:

a. Before each session, the policies on:

(1) When a bingo is timely called by a player;

(2) Whether the bingo caller, floorworker, or both must hear and acknowledge a player who calls the word "bingo" or other required word; and

(3) That a player is responsible for ensuring that the bingo caller, floorworker, or both hear and acknowledge the player; and

b. Before each game, the game's winning bingo pattern.

3. An employee may only assist a disabled player in playing a bingo card or assist a player in how to use a bingo card marking device. A legally blind or disabled player may use the player's personal braille or special card when an organization does not provide such a card. An organization may inspect and reject the card.

4. An employee may not sell or award a gift certificate as a prize unless:

a. A certificate is accounted for when it is sold or awarded. An employee shall issue a certificate to the purchaser or player and retain a copy or stub of the certificate with the daily records and record the certificate on a register to document the sale. An organization shall recognize a sale of a certificate as gross proceeds on the tax return for the quarter in which it was sold. A certificate awarded as a prize has no cash value. A certificate must be used to buy only a bingo card or package;

b. A register is maintained which accounts for all certificates sold or awarded at a site. A register must include, for each certificate, a consecutive control number, selling price (if applicable), dates issued and redeemed, sites at which it is issued and redeemed, and initials of the employees who issue and redeem the certificate; and

c. A redeemed certificate is signed by a player and retained by an organization with the daily accounting records. A player is issued a bingo card or package at the site when the certificate is redeemed.

5. If an organization changes a publicly announced bingo program for a session in which a potential prize or the number of games is reduced, an employee shall notify a player of the change before the player buys a card.

6. If an organization sells two or more differently priced cards or packages for a game, it shall use a different type, color, serial number, or a distinctive identifiable feature for each differently priced card or package. An organization may not use the same serial numbered paper bingo cards for more than one game or group of games during a bingo session, unless the face of a card is a different color or a paper card tracking number is used.

7. If an organization accepts a 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, record the date on the coupon or on a group of coupons for a session, 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 bought.

8. If an organization accepts a donated item in exchange for a discount, an employee shall account for the discount on a register as part of the daily records. A discount must be less than the value of the card or package bought. A register must contain:

   a. Bingo session and date of the session;

   b. Amount of the discount;

   c. Value of the bingo card or package bought;

   d. Signature of the player;

   e. Total amount of bingo card or package discounts for the session; and

   f. Date and initials of the cashier.

9. A card or package must be bought on a site immediately before the start of a game or during a session. However, an organization may presell a card or package for a special session that involves a bingo prize or prizes that equal or exceed ten thousand dollars for the session provided the organization:

   a. Uses a consecutively numbered two-part receipt to register a player who prepays. One part is issued to a player who shall redeem the receipt to receive the card or package. The second part is retained by the organization to account for the gross proceeds;

   b. Separately accounts for the gross proceeds and reports it on a tax return for the quarter in which the game is conducted; and

   c. Provides a card or package to the player before the start of the session that day.

10. No card may be sold for a game which is in progress or ended except for a bonanza bingo or a game that has all of its numbers predrawn. If a paper bingo card is included in a package for a game in progress or ended, the card must be withdrawn and destroyed. An employee may exchange a purchased package for another package if the employee accounts for all the cards of the first package and a session has not started.

11. An organization may allow a player to use a bingo card marking device provided by the organization that marks an electronic card image of a purchased card as follows:

    a. A device cannot be reserved for a player unless a player is disabled. An organization shall provide each player an equal opportunity to use the available devices on a first-come, first-served basis. A device cannot be issued through a floorworker;

    b. A device must be used only to play bingo cards at a site where the site system is located and the session is being conducted;

    c. A device must be rented for a fixed amount, regardless of the price for a card or package or number of cards played through the device, or provided free to a player for the player's temporary use during the session. Rental fees charged to players for the use of devices is nongaming income;

    d. No player can use more than one device at a time during a session;

    e. No player can play more than seventy-two single-faced cards per game on a device and cannot choose or reject cards;

    f. An organization shall use paper bingo cards in the session that are of a series different than the cards downloaded in or played on the devices;

    g. If a card or package may be used in a device and in paper form, it must be sold for the same price. An organization may sell a special card or package to a player for use only in a device. The organization may require a player to buy a minimum-priced card or package to use a device;

    h. If a player rents a device while a game for that session is in progress, the player may not play that game and a cashier shall record on the player's receipt that the specific game number is void;

    i. An organization may print a facsimile of a winning card and post it for players to inspect;

    j. A player may use an input function key on a device or an organization may use a radio frequency signal or Wi-Fi transmission to mark each number as it is called. When a player inputs a number or an organization sends a radio frequency signal or Wi-Fi transmission, a device may automatically mark all the player's cards that contain that number;

    k. If a player has a winning card, the player shall:

        (1) Timely call bingo according to subdivision c of subsection 2 and it must be by a method other than through a device; and

        (2) Provide the device with the winning card displayed to a floorworker to verify according to subsection 18;

    l. If a player's call of a bingo is disputed or if the attorney general makes a request, an organization shall print the winning card stored on the site system;

    m. An organization shall have at least one spare device available should a device in use malfunction. If a player's device malfunctions, the player may replace the device with a spare device. An organization shall restore the player's same cards from the site system;

    n. For site systems in which electronic bingo card images are downloaded to a bingo card marking device, if a player exchanges a device for another device, the original

transaction of the first device must be voided and the transaction involving the second device must be recorded as a sale;

o. An organization may perform routine maintenance on a site system and bingo card marking device; and

p. An organization shall back up all of a site system's accounting information for a session on a separate electronic media file prior to the start of the next business day and retain the backup file for three years from the end of the quarter in which the activity was reported on a tax return. The accounting information must comply with subsection 1 of section 99-01.3-16-09.1.

12. After the start of a session, an organization may not refund the purchase price of a card or package unless a site incurs an electrical power loss, there is inclement weather, an organization experiences an extraordinary incident, a session is canceled, or a player has an emergency.

13. If an organization sells hard cards before each game, during the game an employee shall count the number of hard cards played by all the players to the number recorded as sold. If the comparison reveals an irregularity, the gaming manager shall take corrective action.

14. An organization may not sell a bingo package that contains a variable number of cards based on each player's ability to play. Each separately priced package must contain a standard number of cards.

15. If a game has an actual or potential prize valued at ~~five hundred~~fifty dollars or greater or is a bonus game, an employee shall use an electronic bingo card verifier; record in writing the called numbers and the sequence in which they were drawn; or audio recording of the bingo caller calling the balls. When a player bingos, an employee shall retain the bingo card verifier record, the written record, or audio record, which includes the following and retain these records for six months:

a. Game number, winning pattern, type of card (number of faces on a sheet), type of package (regular, premium, super), winning series (card) number, and last number called; and

b. Cash register receipt number, if applicable.

16. A caller shall display the letter and number on the ball to players except for speedball bingo or when a random number generator is used. An employee shall announce the letters and numbers on the balls or displayed by a random number generator in their exact sequence; however, numbers freely awarded do not need to be announced. The caller is also not required to announce all letters and numbers for a game in which the pattern does not require the use of the selected letters or numbers. If a player calls bingo and the bingo is invalid, the next ball called must be in sequence of the balls drawn.

17. A player may bingo more than one time on the same card when an organization conducts continuation games of more than one pattern on the same card. An organization may also conduct bonus games where multiple winning patterns may be played on the same card and where one or all of the prize patterns has a winner.

18. A winning card must be verified by an employee and one neutral player or person unless an electronic bingo card verifier is used and the display of an electronic bingo card verifier is shown to all players on a monitor. A floorworker may not access a verifier. For a winning card on a bingo card marking device, an employee shall compare the serial number of the device to the receipt for the cards played on that device.

19. An organization may offer a variety of prizes to a winning player who may choose a prize by random selection or chance. A player may win an additional prize by choosing the prize by random selection, by an organization drawing from previous winning players, or playing a game of skill if the player is not required to give anything of value. An organization shall disclose the potential prizes in the bingo program and notify a player of these prizes before the player chooses a prize, has the opportunity to win a prize, or plays a game of skill.

20. An organization may award, as a prize, cash, merchandise, merchandise gift certificate, or gift certificate that can be redeemed for a bingo card or package.

21. An organization may conduct a qualifying game whereby a player wins an opportunity to play in a special game.

22. An organization may award a bonus that is based on a factor incidental to a bingo program if it is disclosed in a program, calendar, or flyer, and announced before a session, and is recorded on a prize register. Factors may include a player bingoing on a certain color of card, combination of colored cards, last number called, particular face of a multifaced card, or winning a game on the player's birthday.

23. If a player bingos and an employee determines that the player is playing more bingo cards than were bought, the player's bingo is void.

24. Bonanza bingo and a game that has all of its numbers predrawn must be conducted as follows:

    a. A caller shall initially call a certain quantity of balls. While a caller initially calls the bingo balls or before the caller calls the next continuous number, a player shall verify that the letter and number on the balls drawn are correctly displayed. A posted display must be used for the games, have restricted access, and reference that game;

    b. A card must be sealed and unpeekable when it is sold;

    c. An organization may sell or exchange cards throughout a session until sales are closed. If an organization exchanges cards, an employee shall, before the next continuous number is called, fully account for the floorworkers' sales of cards according to section 99-01.3-04-07. A floorworker may not turn in any exchanged card after the accounting is begun;

    d. If a player bingos before the next continuous number is called, the player wins. Otherwise, an additional bingo ball is drawn until a player bingos. This rule does not apply to a game that has all of its numbers predrawn;

    e. A game may not extend beyond a session;

    f. 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) Validate the date of the session on the card with a mechanical device or rubber stamp. A card validated for a session, but not sold, must be voided. The organization shall use a different color of card for each game conducted at a site during a day;

        (2) Retain the exchanged cards as part of the daily records for six months;

        (3) Record the validation date and card color used by session; and

        (4) Reconcile the cards, accounting for:

(a) Number of cards taken from inventory which must be independently counted and verified by two employees who shall initial 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 not the floorworker. 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, session, and initial and date. A floorworker shall also initial the floorworker's banded group;

(d) Number of cards returned to inventory and voided which must be independently counted and verified by two employees. Each person shall initial and date the verification; and

(e) Document any discrepancy and corrective action taken; and

g. A voided card must be retained for six months.

25. If an employee determines, during or immediately after the play of a game and before a card is verified as a winning bingo, that a ball is missing, the employee shall void the game and offer the players a fair alternative.

26. An organization shall receipt gross proceeds, including an additional amount paid by a player for a chance to win an extra prize in a special game, by a cash register, tickets, paper card count, paper card tracking number, or floorworker sales report, unless written approval is obtained from the attorney general for use of another receipting method. The receipting method must reference the primary color and type of cards, serial number (optional), number of cards or packages sold, discounts applied to each type of card or package sold, or reference other information approved by the attorney general.

27. If packages are sold which consist of a multiple of cards, records must be maintained that document the number of and primary color and type of cards that are included as part of each package.

28. For a progressive game that increases the number of bingo balls to be called or the prize amount, the organization shall maintain a written record that includes date of session, game number, number of bingo balls, prize amount increase, and accumulated prize amount.

29. For a site where bingo is the primary game or a site that is leased by a licensed organization, the organization or any person may not pay bingo prizes in which the total bingo prizes exceed total bingo gross proceeds for two entire consecutive quarters. However, if bingo is the primary game at the site, a bingo prize that equals or exceeds ten thousand dollars is excluded from the calculation of total bingo prizes.

30. An organization shall have a written bingo program for each session. However, if the program does not change each day or session, an organization may retain one program and record the dates on which it applied. A program must contain:

a. Name of a site and organization;

b. Date or dates of the sessions;

c. Game description, color and type of card, and prize for each game;

d. Selling prices of the cards or packages; and

e. Rental fee charged for a bingo card marking device, if applicable.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.1

99-01.3-04-08. Recordkeeping.

Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For each session:

   a. The gross proceeds for each type of sale or game. If a site system involving bingo card marking devices is used, records must include the summary report for the session according to subdivision c of subsection 1 of section 99-01.3-16-09.1;

   b. The starting and ending cash on hand and IOU records according to section 99-01.3-03-06;

   c. Cash profit as defined in subdivision a of subsection ~~7~~8 of section 99-01.3-02-01;

   d. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all sessions for a quarter must reconcile to the tax return;

   e. Prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08;

   f. Record of called bingo numbers according to subsection 15 of section 99-01.3-04-03;

   g. Inventory records according to subsections ~~2~~3 and ~~3~~4 of section 99-01.3-03-09;

   h. ~~If bingo is the primary game at a site, the number of players;~~

   ~~i.~~ A copy of or reference to a bingo program according to subsection 29 of section 99-01.3-04-03;

   ~~j.~~i. For progressive games, a record according to subsection 28 of section 99-01.3-04-03;

   ~~k.~~j. All voided paper bingo cards, other voided sealed and unpeekable bingo cards, and exchanged bonanza bingo cards, which must be retained for six months;

   ~~l.~~k. Gift certificate register according to subdivision b of subsection 4 of section 99-01.3-04-03;

   ~~m.~~l. Redeemed gift certificates and discount coupons; and

   ~~n.~~m. Purchase invoice or receipt documenting the cost and description of a merchandise prize.

2. Ideal cash bank master records according to subsection ~~4~~5 of section 99-01.3-03-09.

3. Verification of the amount deposited according to a bank statement, and an audit of the game's activity according to subsections 6 and 7 of section 99-01.3-03-10.

4. The count and reconciliation of paper bingo cards, rolls of tickets, and cash banks according to subsections ~~2,~~ 3, 4, 5, and ~~6~~7 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-04.1

99-01.3-04.1-01. Electronic quick shot bingo.

"Electronic quick shot bingo" means a bingo game played on portable hand-held bingo devices utilizing electronic bingo card images. The bingo game is played using twenty-four predrawn letters and numbers and may use up to six bonus numbers to achieve predetermined patterns. If a predetermined pattern is achieved, then the player wins a prize based on a specific prize table. Because the game has all of its letters and numbers predrawn, there may or may not be a winning player for each game played. A player is not required to say the word "bingo" before a bingo is awarded. Before a session begins, an employee shall draw or a random number generator shall draw twenty-four balls or numbers comprised of the first five balls or numbers from each of the "B", "I", "G", and "O" rows, and the first four balls or numbers from the "N" row. Up to six additional balls or numbers may be drawn as bonus numbers. Once twenty-four balls or numbers and any bonus balls or numbers, if applicable, are selected, an employee or the related equipment shall enter the numbers into the electronic quick shot bingo site operating system and post the selected balls or numbers once during a business day prior to starting the session. An electronic quick shot bingo site operating system with card-marking devices and related equipment may only be sold or provided to an organization with a state gaming license.

History: Effective July 1, 2012; amended effective April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-04.1-03. Conduct and play.

1. Only one set of numbers may be drawn for a ~~session~~business day. The predrawn numbers for the current session must be posted at the site. The use of a flashboard is optional. Unless there is only one employee on duty, two persons shall verify and attest to the numbers drawn or selected, numbers posted, and numbers entered into the electronic quick shot bingo site operating system for the current session. When the bingo numbers have been drawn or selected, the numbers may not be changed. Players are not allowed to pick any numbers to match for an electronic quick shot bingo game or bonus feature. No electronic quick shot bingo session may extend beyond the end of a business day. After a session has been closed, the called bingo numbers must be cleared before the start of the next ~~session~~business day.

2. Players are responsible for safeguarding their receipt with the designated account number to track all deposits on an electronic quick shot bingo card-marking device. A player's receipt must be presented when redeeming prizes or cashing out credits.

3. If a player has a winning prize pattern, all prize winnings must be awarded to players in a separate winnings account on an electronic quick shot bingo card-marking device. Automatic transfer by the player of any winnings balance to the credit (deposit) balance on the device is prohibited. All payouts of winnings must be transacted by an organization employee.

4. A player shall not be required to forfeit any winnings or make an additional wager in order to receive a bonus game or feature.

5. The following rules, information, and policies must be posted or made available to players. If made available to players, the rules, information, and policies must be in the form of a handout that is easily visible to the players and may not be a copy of the gaming law and rules:

   a. A person under eighteen years of age may not play electronic quick shot bingo;

   b. The actual letters and numbers predrawn by the organization are official;

c. If a person knowingly uses a fraudulent scheme or technique to cheat or skim involving electronic quick shot bingo, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both;

d. An electronic quick shot bingo card-marking device may not be taken outside of the gaming area;

e. An employee may only assist a player in how to use an electronic quick shot bingo card-marking device;

f. No player can use more than one electronic quick shot bingo card-marking device at a time during a session;

g. If a player attempts to falsify or falsifies a record of win, the prize is forfeited;

h. A player may not sell the remaining credits on a device to another player; and

i. A player shall present the player's receipt when redeeming prizes or cashing out credits;

j. A policy that if a player has more than one winning bingo pattern on a card, whether the highest prize pattern will be awarded or all winning prize patterns will be awarded;

k. A policy in the event that a player has lost the player's receipt;

l. A policy when an organization may cancel a session due to power outage, electronic quick shot bingo site operating system being down, or any transmission problems; and

m. If applicable, a policy regarding use of an electronic quick shot bingo card-marking device and additional paper bingo cards at the same time.

6. An employee or floorworker shall use a point-of-sale device when adding additional credits (deposits) and redeeming winnings for additional credits (deposits) involving an electronic quick shot bingo card-marking device provided that all transactions are accounted for according to the manufacturing specifications in section 99-01.3-16-09.4.

7. An electronic quick shot bingo card-marking device cannot be reserved for a player. An organization shall provide each player an equal opportunity to use the available devices on a first-come, first-served basis.

8. An organization may pay a fixed rate per electronic quick shot bingo card-marking device or a fixed fee per bingo card sold. No payment for use of a device may be based on a percentage of the gross proceeds, adjusted gross proceeds, or net income earned.

9. A receipt must comply with subdivision i of subsection 12 of section 99-01.3-16-09.4.

10. A receipt for a void, refund, or similar item must be initialed by a supervisor or another employee who did not conduct the transaction if a supervisor is not available and retained with the daily records.

11. All prizes awarded must be cash.

12. No electronic quick shot bingo games may be played with a progressive prize unless authorized by the attorney general.

13. A separate cash bank must be used with electronic quick shot bingo at a site. All deposits must be separately identified from other game types, including other bingo games conducted at a site.

14. Unredeemed credits on an electronic quick shot bingo card-marking device are considered to be gross proceeds. Unclaimed prizes on the device are subtracted from total prizes won in calculating the adjusted gross proceeds.

15. An organization shall deactivate an employee password within forty-eight hours of that employee leaving employment. Passwords for employees of a site must be changed every six months.

16. No discount, gift certificates, or promotions are allowed unless authorized by the attorney general.

17. An organization shall back up all of an electronic quick shot bingo site operating system's accounting information for a session on a separate electronic media file prior to the start of the next business day and retain the backup file for three years from the end of the quarter in which the activity was reported on a tax return. The accounting information must comply with subsection 12 of section 99-01.3-16-09.4.

History: Effective July 1, 2012; amended effective April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-04.1-04. Recordkeeping.

Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For each session:

   a. The electronic quick shot bingo site operating system involving a bingo card-marking device must include the summary report for the session according to subdivision j of subsection 1 of section 99-01.3-16-09.4;

   b. The starting and ending cash on hand and IOU records according to section 99-01.3-03-06;

   c. Cash profit as defined in subdivision a of subsection ~~7~~8 of section 99-01.3-02-01;

   d. A summary of the total dollar value of credits sold, total dollar value of unplayed credit cashed out, gross proceeds, prizes won, unclaimed prizes, prizes paid, adjusted gross proceeds, cash profit, cash long and short, and bank deposit. The summaries of all sessions for a quarter must reconcile to the tax return;

   e. Prize report according to subdivision l of subsection 12 of section 99-01.3-16-09.4;

   f. Record of win according to section 99-01.3-03-08; and

   g. Record of the balls or numbers predrawn, including bonus numbers and a record of numbers actually entered into the electronic quick shot bingo site operating system according to subdivision m of subsection 12 of section 99-01.3-16-09.4.

2. Ideal cash bank master records according to subsection ~~4~~5 of section 99-01.3-03-09.

3. Verification of the amount deposited according to a bank statement, and an audit of the game's activity according to subsections 6 and 7 of section 99-01.3-03-10.

4. The count and reconciliation of cash banks according to subsections ~~4~~5 and ~~6~~7 of section 99-01.3-03-09.

History: Effective July 1, 2012; amended effective April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-05-03. Prize restrictions and requirements.

1. No prize may be real estate, ticket for entry into another raffle, or live animal except for beef or dairy cattle, horse, bison, sheep, or pig. A prize must be an item that may be legally owned and possessed and has a value or a right to a free service. A winning player may not be required to first pay for or buy something to receive a prize. Cash or merchandise prizes may be awarded. A cash prize may be based on a percentage of gross proceeds. However, a single cash prize cannot exceed twenty-five thousand dollars and the total cash prizes cannot exceed twenty-five thousand dollars during a day. The maximum cash prize limits of this section do not apply to a public-spirited organization that supports amateur collegiate athletics. The public-spirited organization's primary purpose must include support of collegiate athletics.

2. ~~A~~On not more than two occasions, per year, a licensed organization may, at the request of a winning player, exchange a merchandise prize valued at not more than twenty-five thousand dollars for a cash prize. Merchandise prizes with a value in excess of twenty-five thousand dollars may not be exchanged for cash. An organization may advertise that cash may be requested as an alternative to the merchandise prize being offered.

3. An organization shall own, have a contract to acquire, or be able to obtain a merchandise prize before offering a merchandise prize in a drawing. However, an organization does not need to register or title an automobile or similar item.

4. Besides a primary prize that is awarded, an organization may offer an additional unguaranteed cash prize limited to one thousand dollars or merchandise prize provided:

   a. A ticket must describe the prize;

   b. The prize is predetermined and may be limited to a winning player of one of the other prizes;

   c. A player is not required to pay an additional amount, forfeit a prize, or be present to participate;

   d. Unless an organization owns a prize, an award of the prize must be insured; and

   e. Unless the prize is limited to a winning player of one of the other prizes, a drawing must be conducted from all tickets sold.

5. If an organization has not been able to recover the cost of the prize, it may cancel a raffle with approval from the attorney general and refund the gross proceeds.

6. A prize winner shall be drawn or determined on the date and at the location indicated on a ticket unless a different date or location is requested in writing and approved by the attorney general before the date of the drawing. If a different drawing date or location is approved, an organization shall notify the purchasers of the tickets of the change by contacting each purchaser or by making a public announcement. The attorney general may, for good cause, change the date or location for a drawing.

7. Within seven days of a raffle, an organization shall notify the winning player verbally or, if the value of the prize exceeds ~~two~~five hundred dollars, in writing, of the prize and arrange the pickup or delivery of the prize. If a prize remains unclaimed by a winning player for thirty days following the date of the written notification and an organization has made a good-faith effort to contact the winner to redeem the prize, the organization may retain the prize, have a second prize drawing, or award it in another raffle or game.

8. An organization may award a bonus prize based on a separate drawing of previously drawn winning tickets.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 36-21.1-09, 53-06.1-01.1, 53-06.1-10.1

99-01.3-05-07. Recordkeeping.

Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For each raffle that uses tickets with detachable stubs:
   a. Purchase invoice documenting the purchase of tickets and range of ticket numbers printed;
   b. Ticket distribution log containing a ticket seller's name, quantity issued, range of single and discounted ticket numbers issued to the seller, and quantity sold;
   c. Reconciliation of the cash received from each ticket seller based on the number of tickets sold, including discounted tickets, date cash is received, and a schedule of bank deposits;
   d. A sample of a ticket;
   e. The stubs of all sold raffle tickets and all unsold raffle tickets which must be retained for one year from the end of the quarter in which the activity was reported on a tax return; and
   f. Documentation of the cost of nongaming activity according to subdivision b of subsection 1 of section 99-01.3-05-06.
2. For each raffle that uses double roll tickets:
   a. The daily starting and ending cash on hand and IOU records according to section 99-01.3-03-06;
   b. Daily records according to subsection 4 of section 99-01.3-05-05;
   c. Inventory records according to subsection ~~3~~4 of section 99-01.3-03-09; and
   d. The count and reconciliation of rolls of tickets and cash banks according to subsections ~~3,~~ 4, 5, and ~~6~~7 of section 99-01.3-03-09.
3. For each raffle board:
   a. The sold raffle board with the state gaming stamp affixed which must indicate the winning number and player;
   b. The daily starting and ending cash on hand and IOU records according to section 99-01.3-03-06;
   c. Inventory records according to subsection 1 of section 99-01.3-03-09; and
   d. The count and reconciliation of raffle boards and cash banks according to subsections 1, ~~4~~5, and ~~6~~7 of section 99-01.3-03-09.

4. For all raffles:

   a. Prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08;

   b. Cash profit as defined in subdivision b of subsection ~~7~~8 of section 99-01.3-02-01;

   c. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all raffles for a quarter must reconcile to the tax return; and

   d. Purchase invoice or receipt documenting the cost and description of a merchandise prize.

5. Ideal cash bank master records according to subsection ~~4~~5 of section 99-01.3-03-09.

6. Verification of the amount deposited according to a bank statement, and an audit of the game's activity according to subsections 6 and 7 of section 99-01.3-03-10.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-05.1

99-01.3-05.1-01. Fifty-fifty raffle system.

A fifty-fifty raffle system means computer hardware, software, and related equipment used to sell fifty-fifty raffle tickets and account for sales. A fifty-fifty raffle system server must be located in a secure location at the site of the raffle event. A fifty-fifty raffle system must be operated by the organization conducting the raffle. A winning player is determined by either drawing a draw number from a receptacle or by using a random number generator. A draw number is a number that is provided to the player on a bearer ticket which may be selected as the winning number for the raffle. A bearer ticket is a paper ticket that contains one or more draw numbers purchased. The conduct of a raffle is the drawing. Fifty-fifty raffle systems may only be used for single event raffles. Single event raffles are raffles conducted on the same day at the same event.

History: Effective April 1, 2016; amended effective July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-05.1-03. Prize restrictions and requirements.

1. Prizes must only be cash and must be fifty percent or more of gross proceeds for each single event raffle. However, a single cash prize may not exceed twenty-five thousand dollars and the total cash prizes may not exceed twenty-five thousand dollars during a day. Prize payouts must be based on ticket sales and not on cash retained by sellers. The maximum cash prize limits of this section do not apply to a public-spirited organization that supports amateur collegiate athletics. The public-spirited organization's primary purpose must include support of collegiate athletics.

2. A prize winner must be drawn on the date and at the location indicated on a bearer ticket.

3. The winning draw number must be selected from all sold draw numbers from the current single event raffle drawing.

4. The organization shall post or publish by a public means, the winning draw number and where the prize may be claimed. A winning player need not be present when a drawing is held but shall claim the prize ~~by the next~~within five business ~~day~~days. A statement of the time of the drawing and redemption period must be on all promotional material and be posted at a site. If a prize is not claimed due to time limitations, the organization shall contact the attorney general.

5. If there is a power failure or technical problem with the system and the system can no longer be used, the raffle drawing must not occur until the power or system has been restored and all purchased draw numbers have been printed into the receptacle. The attorney general is to be notified immediately if a raffle drawing occurs and the organization later determines that not all eligible draw numbers were placed into the draw container. The organization shall specify the total number and draw numbers of the affected tickets and provide an explanation for how the problem occurred.

History: Effective April 1, 2016; amended effective July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-05.1-05. Recordkeeping.

For each fifty-fifty single event raffle, records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. The single event raffle accounting and operating records according to subsection 2 of section 99-01.3-16-09.5.

2. The daily starting and ending cash on hand records according to section 99-01.3-03-06.

3. A record identifying the allocation of draw numbers to each raffle sales unit and the seller's names assigned to each unit.

4. A reconciliation of cash received to the dollar value of draw numbers sold for each raffle sales unit and its sellers and in total for the single event raffle.

5. A reconciliation of all sold, voided, and unsold draw numbers to the total number of draw numbers that were available for sale for each single event raffle.

6. The actual winning draw number, bearer ticket showing purchase of the winning draw number, and all sold and voided draw numbers if the winning player is determined by drawing a draw number from a receptacle, which must be retained for one year from the end of the quarter in which the activity was reported on a tax return.

7. Prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08.

8. Cash profit as defined in subdivision b of section ~~6~~8 of section 99-01.3-02-01.

9. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all raffles for a quarter must reconcile to the tax return.

10. Ideal cash bank master records according to subsection ~~4~~5 of section 99-01.3-03-09.

11. Verification of the amount deposited according to a bank statement and an audit of the game's activity according to subsections 6 and 7 of section 99-01.3-03-10.

12. The count and reconciliation of cash banks according to subsections ~~4~~5 and ~~6~~7 of section 99-01.3-03-09.

History: Effective April 1, 2016; amended effective July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-06-02. Conduct and play.

1. Deals of pull tabs must be commingled for a game 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. An employee shall add a deal to a game when there are about two hundred fifty pull tabs remaining and the game cannot be or is not being closed. The new pull tabs must be intermixed with the pull tabs in the receptacle before any pull tab is sold;

   b. The deals must be identical except for the game serial number, and a minor difference in printing that is approved by the attorney general. Each deal must have at least two top tier winning pull tabs. If deals of a game involve folded or banded jar tickets, the color of the tickets' band must be the same; however, multiple-colored bands on a single ticket may be used. When a deal is added to a game, an employee shall compare the color of a deal's pull tabs to the color of the game's pull tabs. If the two colors are not the same, the deal cannot be used;

   c. A master flare or flare for at least one deal of a game must be displayed with the game and be visible to and not easily removed by a player. 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. Only the flare of one deal of a game may have a last sale prize feature;

   d. If an indicator for adding a deal to a game has been reached and an organization does not have a deal to add, the organization shall temporarily suspend the game until it procures a deal. However, if the organization is unable to procure a deal from the distributors and all the top tier winning pull tabs have been redeemed, it may close the game;

   e. If a site's total gross proceeds of pull tabs averages twelve thousand five hundred dollars or less per quarter, a game may be closed anytime if all top tier winning pull tabs have been redeemed;

   f. Except as provided by subdivision g, if a site's total gross proceeds of pull tabs averages more than twelve thousand five hundred dollars per quarter, no game may be closed unless an organization discontinues gaming at the site, or all the top tier winning pull tabs have been redeemed and a game has been in play for twenty-five consecutive calendar days; and

   g. An organization shall close a game by the end of a quarter. If all top tier winning pull tabs have been redeemed, an organization may close a game for the quarter within fourteen calendar days before the end of that quarter. An organization may start a new game for the next quarter within fourteen calendar days before the next quarter begins. However, an organization may not start a new game and end that game within this fourteen-calendar-day period.

2. An employee may not place a deal of pull tabs, club special, or prize board in play which has a manufacturer's or distributor's seal broken on the game's container when the game was received from a distributor. A person may not take off a deal's manufacturer's cellophane shrink wrap or break the manufacturer's or distributor's security seal on the deal's container until the deal is to be placed in a receptacle. If a distributor's or manufacturer's security seal is

broken before the deal is used, an organization shall return the deal to the distributor. If a deal is packaged in two or more containers, the full deal must be placed in play at the same time.

3. The following rules, information, and policies must be posted or made available to players. If made available to players, the rules, information, and policies must be in the form of a handout that is easily visible to the players and may not be a copy of the gaming law and rules:

   a. Restricting the play of a game to one player or a group of players is prohibited;

   b. A winning pull tab must be redeemed within a fifteen-minute time limit;

   c. If a person knowingly solicits, provides, receives, or knowingly uses any inside information, from or to any person, by any means, or knowingly uses a fraudulent scheme or technique to cheat or skim involving pull tabs, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both;

   d. A pull tab cannot be redeemed if it has been taken from the gaming area;

   e. To the best of the organization's knowledge, a prize remaining on a board relates to a winning pull tab that has not been redeemed. This rule is not required to be posted or made available to players if an organization does not conduct a prize board;

   f. A deal may be added to a game at any time; and

   g. If a player attempts to falsify or falsifies a record of win, the prize is forfeited. This rule is not required to be posted or made available to players if an organization does not pay a prize that requires a record of win;

   h. For any last sale prize, the method of determining which player is entitled to buy the last pull tab or punch for a last sale prize when two or more players desire to buy the last pull tab or punch;

   i. The information, if any, authorized by subdivision a or b, or both, of subsection 5;

   j. Any limit on the number of pull tabs or punches that a player may buy at a time;

   k. When a game is being closed, an employee shall:

      (1) Post a notice that the game is being sold out; and

      (2) Any limit on the number of pull tabs or punches that two or more players may buy at a time.

4. A player may not redeem and an employee may not knowingly pay a prize for a pull tab after fifteen minutes have elapsed since the pull tab was bought. If a player attempts to redeem a pull tab after the time limit, an employee shall, if possible, retain and void the pull tab.

5. A person may post the information referenced by subdivision a or b, or both, for a commingled game provided that the posting contains a statement that the information is correct to the best of the organization's knowledge and that the information is not guaranteed to be accurate. If an organization does not have a policy on when to stop posting this information when a game is being closed, it shall stop posting the information when there are less than six winning pull tabs, through a level of prize value determined by the organization, that remain unredeemed. Posted information may be as described in subdivision a or b, or both:

a. The minimum number of unredeemed winning pull tabs or a range of numbers of unredeemed winning pull tabs, through a level of prize value determined by an organization, that will always be in a game unless the game is being closed. This information may be for each prize value or the total of several prize values. The level of prize value must be posted. If a pull tab has two or more winning prize patterns, the information must be based on the value of each prize pattern.

b. The number of unredeemed winning pull tabs, through a level of prize value determined by an organization, that remain in a game. This information may be for each prize value or the total of several prize values. The level of prize value must be posted. If a pull tab has two or more winning prize patterns, the information must be based on the value of each prize pattern. The information must be continually updated.

6. An organization may limit the number of pull tabs a player may buy regardless if the player is redeeming a winning pull tab.

7. An employee may not selectively pick a pull tab from a receptacle based on its game serial number or other factor. An employee shall take a handful of pull tabs from a receptacle and count off the number bought. An employee may not permit a player to physically handpick a pull tab or honor a player's request to select a specific pull tab. However, an employee may honor a player's suggestion to select a pull tab from a general area of a receptacle. In applying subsection 2 of North Dakota Century Code section 53-06.1-16, the phrase "fraudulent scheme or technique" includes an employee selecting, by any method, only certain pull tabs in a game or an employee not thoroughly intermixing pull tabs of the initial or added deals.

8. An employee may only assist a ~~disabled player~~person with a disability in opening a pull tab.

9. An employee shall deface a winning number or symbol of a pull tab, including pull tabs used with a prize board, and punchboard punch when it is redeemed. If a pull tab has two or more winning prize patterns, a winning number or symbol of at least one pattern must be defaced. An employee may not knowingly pay a prize to a player who is redeeming a pull tab that has been defaced, tampered with, counterfeited, has a game serial number different from the serial numbers of the deals in the game, or is defective.

10. If a player buys a set of banded jar tickets and before opening or breaking the band of any jar ticket, determines that the set contains less than the standard number of tickets, an employee may issue the player only the number of tickets actually missing or may issue the player a new set in exchange for the defective set.

11. When a game is being closed, an organization may continue to conduct the game although all of its top tier and minor winning pull tabs have been redeemed. An employee may not permit a player to buy out a game except when a game is being closed. If an organization closes a game that has pull tabs unsold, it may not open or place the pull tabs back into play.

12. Unless an organization conducts a commingled game according to subdivision e of subsection 1 or closes a commingled game at least monthly, an employee who did not conduct the game, have sole access to the games in play, cash banks, and receipts or cash profit for the games, shall do a monthly interim audit of the game. If the percent-of-accuracy of all the games of a site for the previous quarter was less than ninety-eight and one-half percent, and a cash shortage of more than one hundred dollars, an employee who did not conduct the game, have sole access to the games in play, cash banks, and receipts or cash profit for the games, shall do a weekly interim audit of the games for that site for up to twelve continuous weeks or until the organization determines, resolves, and documents the cause. One of the weekly interim audits may be the audit required by subsection 7 of section 99-01.3-03-10. An organization shall start the weekly audits no later than the date on which its

tax return for the quarter was filed with the attorney general. Percent-of-accuracy is computed as cash profit divided by adjusted gross proceeds.

13. An employee shall award the last sale cash or merchandise prize to the player who actually buys the last pull tab or punch.

14. An organization may transfer a commingled game, club special, tip board, seal board, prize board, and punchboard from a site to another site, or rotate games among sites. If an organization discontinues gaming at a site, it may close a game. If a game is in the process of being conducted through a jar bar, the game cannot be transferred to a dispensing device. A game must be reported for the site at which it was closed and on a tax return for the quarter in which it was closed.

15. An employee may not pay, from any source of funds, a prize to a player unless the player redeems an actual winning pull tab that has a game serial number from a game conducted at the site. This rule does not apply to a last sale prize.

16. Before leaving a jar bar unattended, an employee shall safeguard the games, cash, and records.

17. An organization may not publicly display a redeemed pull tab.

18. An organization or employee may not reimburse, from any source of funds, an amount to a player for play of a game that has a manufacturing defect or has an incorrect posting of information described by subsection 6, unless the attorney general approves.

19. If an organization suspects or determines that a game may be defective, the organization shall temporarily suspend the game, notify the attorney general, and follow the attorney general's instructions.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-08

99-01.3-06-03. Recordkeeping.

Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. All redeemed and unsold pull tabs or punches for a game must be retained as documentation for gross proceeds and prizes for one year from the end of the quarter in which the activity was reported on a tax return.

2. For a commingled game, an accounting of each deal's, shift's, or day's redeemed pull tabs, including the number by prize value, total prizes, and number of redeemed top tier pull tabs by game serial number. 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. If the accounting is done each time a deal is added to a game, the redeemed winning pull tabs for the period must be grouped separately and retained with all other groups of pull tabs of that game. If the accounting is done at the end of each shift or day, the redeemed winning pull tabs for each shift or day must be banded and each banded group must be dated with the date of activity and be retained in a storage container with all other banded groups of that game. For each game, there must be a daily accounting of deals added to a game, by gaming stamp and game serial numbers, and of the cash profit and bank deposit.

3. For a club special, tip board, seal board, prize board, and punchboard, an accounting of prizes, by state gaming stamp number.

4. A daily accounting of starting and ending cash on hand and IOU records according to section 99-01.3-03-06.

5. For a deal of pull tabs or prize board, the game information sheet ~~and~~, flare~~,~~ with the state gaming stamp affixed, and one master flare; and for a club special, tip board, punchboard, and seal board, the flare, with the state gaming stamp affixed.

6. A summary of ideal gross proceeds, value of unsold pull tabs or punches, gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries for a quarter must reconcile to the activity reported on the tax return.

7. Record of win according to section 99-01.3-03-08.

8. Inventory records according to subsection 1 of section 99-01.3-03-09.

9. Ideal cash bank master records according to subsection ~~4~~5 of section 99-01.3-03-09.

10. An organization approved by the attorney general to use a combined cash bank for pull tab games at a site shall document the allocation of cash profit to each game based on the ratio of a game's adjusted gross proceeds to the total adjusted gross proceeds of all the games.

11. For a commingled game, club special, tip board, seal board, prize board, and punchboard the cash profit as defined in subdivisions c, ~~e~~f, and ~~f~~g of subsection ~~7~~8 of section 99-01.3-02-01.

12. Interim audit records according to subsection 12 of section 99-01.3-06-02.

13. Verification of the amount deposited according to a bank statement and an audit of the game's activity according to subsections 6 and 7 of section 99-01.3-03-10.

14. Purchase invoice or receipt documenting the cost and description of a merchandise prize.

15. The count and reconciliation of deals, games, and cash banks according to subsections 1, ~~4~~5, and ~~6~~7 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-06.1
ELECTRONIC PULL TAB DEVICES

Section
99-01.3-06.1-01 Electronic Pull Tab Devices
99-01.3-06.1-02 Use and Requirements of an Organization
99-01.3-06.1-03 Requirements of a Bar
99-01.3-06.1-04 Requirements of a Bar and an Organization
99-01.3-06.1-05 Recordkeeping

99-01.3-06.1-01. Electronic pull tab devices.

"Electronic pull tab device" means a device, approved by the attorney general, which electronically displays pull tabs. The device is part of an electronic pull tab device operating system used in the conduct of electronic pull tabs. After the insertion of cash into the electronic pull tab device's currency validator, the player has access to a credit account allowing for the purchase and play of an electronic pull tab. If a winning combination of numbers, letters, or symbols is displayed after opening the electronic pull tab, a player wins credits that are displayed on the credit meter and can be used to purchase more electronic pull tabs or cashed out to a voucher which can be redeemed for cash.

History: Effective July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-06.1-02. Use and requirements of an organization.

1. An organization may not install more than five electronic pull tab devices in a site. An organization may request, in writing, a waiver to the number of devices installed for consideration by the attorney general not to exceed fifteen devices per site. A device must be clearly labeled so as to inform the public that no one under twenty-one years of age is allowed to play.

    a. An electronic pull tab device must be a stand-alone cabinet style device. No device may be a hand-held portable device or affixed to a bar, counter, or table top.

    b. An electronic pull tab device must be used only to play electronic pull tabs. No other game type may be played on the device and no level of player skill may be involved in the determination of any pull tab prize. A device may not be part of a progressive system or employ any other features, such as bonus plays or promotions. An extended play feature may be used in which a player may play without additional consideration. An extended play feature must not interfere with or in any way affect the outcome of any finite game being played. If an extended play feature is used a notification must be provided to the player explaining that an extended play feature is used on the game and that "Extended play features prolong the play of an electronic pull tab ticket but do not award a prize in addition to the predetermined prize for that ticket."

    c. Insertion of United States paper currency only must be accepted through the electronic pull tab device's currency validator to initiate play.

    d. An electronic pull tab device may not directly dispense coins, cash, tokens, or anything else of value other than a credit ticket voucher.

2. An organization may not have more than six electronic pull tab game titles selectable for play on the electronic pull tab devices at a site. Only one of the games can be selected for play at

any given time. A winning electronic pull tab may be made up of a combination of numbers, letters, or symbols. Game themes must not contain offensive or obscene graphics, animations, or references.

3. An organization only may conduct electronic pull tab device activity during the hours when alcoholic beverages may be dispensed according to applicable regulations of the state, county, or city. A device must be programed to not allow play during hours when alcoholic beverages may not be dispensed.

4. The following rules must be posted:

   a. A player may play only one electronic pull tab device at a time;

   b. An electronic pull tab device may not be reserved. However, a device may be held for an active player for no more than fifteen minutes;

   c. A credit ticket voucher is only valid and must be redeemed on the same business day as it was printed; and

   d. If a person knowingly solicits, provides, or receives any inside information, by any person, by any means, or knowingly uses a fraudulent scheme or technique to cheat or skim involving electronic pull tabs, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail, or both.

5. An organization shall maintain custody of all keys to an electronic pull tab device. A bar employee may not have access to a device. The keys for each lock on a device must be keyed differently, including the lock for a device's outer door and the inner compartments that must separately house the computer logic and server area and currency validator stacker area. An organization may not provide an independent service technician keys to access an electronic pull tab device regardless if the device is leased.

6. An organization or employee may not modify the assembly or operational functions of an electronic pull tab device.

7. An organization may not post nor may an electronic pull tab device be capable of displaying any game information relating to electronic pull tab device activity, including the number of unsold pull tabs or the number and value of prizes remaining in a game.

8. An organization shall use the attorney general's current recordkeeping system for electronic pull tab activity unless approval is obtained from the attorney general for use of another system.

9. An organization shall:

   a. Withdraw currency from an electronic pull tab device within a seven-calendar-day interim period. Electronic pull tab activity at a site must be suspended during the period of time when currency is being withdrawn from a device and credit ticket vouchers are bought back.

   b. Generate and print an interim period electronic pull tab device activity report for each device at a site according to subdivision a of subsection 16 of section 99-01.3-16-09.6. The information from this report must be recorded on an interim period site summary. After completion of the interim period site summary, all system generated interim period electronic pull tab device activity reports must be attached and retained with the interim period site summary.

c. From the interim period site summary, game activity information, including gross proceeds, prizes, adjusted gross proceeds, cash profit, and cash long or short for each game conducted at a site must be posted to a game summary report maintained for each game. The game summary report must include cumulative totals for each. Total cash profit for the interim period at a site is allocated to each game based on the ratio of a game's adjusted gross proceeds to the total adjusted gross proceeds of all the games.

10. An organization shall have a rental agreement conforming to section 99-01.3-02-06.

11. An organization shall maintain an access log prescribed by the attorney general for each electronic pull tab device. A person who accesses a device shall record the reason for access and date and initial the log. An organization shall retain the log in the device during the quarter of activity.

12. Credit ticket vouchers may be redeemed by an organization employee when on duty, by a bar employee, or by both.

13. For the redemption of credit ticket vouchers by organization employees at a site, an organization shall maintain one cash bank for each different manufacturer's devices.

14. An organization may provide a bar with a temporary loan to enable a bar employee to redeem a credit ticket voucher. A loan and any increase in the loan must be made by check payable to the bar and be interest free. An organization may not access, count, or take custody of the loaned money. The duration of the loan must be until the organization discontinues conducting electronic pull tabs at the site. When the bar repays the loan, the organization shall deposit the funds in its gaming account and the deposit slip must reference the site, source of funds, and amount. The amount reimbursed to a bar must equal the dollar value of redeemed credit ticket vouchers which the bar provides to an organization. An organization employee may not use a bar's loan for redeeming a credit ticket voucher.

15. If a theft of currency occurs from an electronic pull tab device, an organization immediately shall discontinue and close all electronic pull tab games at the site associated with that manufacturer's devices, contact their distributor and generate an interim period electronic pull tab device activity report and electronic pull tab closed game summary report according to subdivisions a and d of subsection 16 of section 99-01.3-16-09.6. The organization shall provide a copy of all of this information to a local law enforcement agency and the attorney general.

16. A game must be conducted and played through an electronic pull tab device as follows:

a. Each electronic pull tab deal must contain a fixed number of tickets. The maximum number of pull tab tickets per electronic deal may not exceed fifteen thousand and the minimum may not be less than two thousand.

(1) All electronic pull tabs in a particular deal must be of the same purchase price and may not exceed the maximum two dollars sale price per pull tab as set forth by North Dakota Century Code section 53-06.1-08;

(2) The maximum prize amount awarded for a winning combination of numbers, letters, or symbols on each electronic pull tab may not exceed five hundred dollars as set forth by North Dakota Century Code section 53-06.1-08;

(3) A deal must have at least two top tier winning pull tabs;

(4) Each deal may not pay out more than ninety percent of gross proceeds;

(5) Each deal must be assigned a unique serial number; and

(6) Each deal must be assigned a unique state gaming stamp number by the distributor prior to delivery to the organization site server.

b. All games of electronic pull tabs of the same manufacturer at a site must be put into play and started at the same time. For the start of each game, at least two, and no more than two electronic pull tab deals must be commingled on the site server for each game. The game deals must be identical, which includes game identification, deal version, manufacturer, game name, total number of electronic pull tabs, purchase price per electronic pull tab ticket, and prize structure.

c. For each game of the same manufacturer, when the unsold tickets of the original starting identical two deals reach two thousand pull tab tickets remaining, at least one full deal but no more than one additional identical deal of the same game must be automatically downloaded onto the site server and commingled with the remaining two thousand tickets of that game. Each time the two thousand ticket threshold is reached, an additional deal must automatically be downloaded and commingled with the remaining electronic pull tab tickets in the game continuously throughout the entire quarter.

d. No game may be closed during a quarter unless approved by the attorney general and all games of the same manufacturer at a site must be closed at the same time within fourteen calendar days from the end of the quarter. Once closed, a game and its deals cannot be reopened.

e. When the games are closed an employee shall buy back all remaining credit ticket vouchers from the organization employee cash bank and from a bar. The game must be reported on a gaming tax return for the site at which it was closed.

f. At the end of each month, an independent audit person of the organization shall reconcile the game summary report to the monthly interim audit report according to subdivision c of subsection 16 of section 99-01.3-16-09.6. At the end of the quarter, after a game has been closed, the independent audit person shall reconcile the game summary report to the electronic pull tab closed game summary report according to subdivision d of subsection 16 of section 99-01.3-16-09.6. The electronic pull tab closed game summary report may not be generated or printed prior to an electronic pull tab game being closed. Doing so will cause immediate and automatic termination of a game. All reconciliations must be dated and signed by the independent audit person.

17. The organization immediately shall shut down an electronic pull tab device operating system and notify the attorney general if it detects or discovers any defect, malfunction, or problem with an electronic pull tab operating system, electronic pull tab device, or electronic pull tab game that affects the security or the integrity of the game. The organization shall also immediately notify their distributor of the defect, malfunction, or problem.

History: Effective July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-06.1-03. Requirements of a bar.

1. A bar shall:

a. Place an electronic pull tab device in a location where alcoholic beverages are dispensed and consumed and where a bar employee will regularly observe the device;

b. Prohibit a person from tampering or interfering with the operation or play of an electronic pull tab device;

c. Ensure that an electronic pull tab device is disabled from play unless alcoholic beverages may be dispensed, a bar employee is available to redeem a credit ticket voucher, and a bar has cash on hand to redeem a credit ticket voucher;

d. Absorb a loss related to a counterfeit or lost credit ticket voucher, redeemed credit ticket voucher that was not issued at the site on that day, and loss or theft of the temporary loan of funds;

e. Repay an organization's temporary loan of funds immediately upon request from the organization that discontinues conducting electronic pull tabs at a site;

f. If a malfunction of an electronic pull tab device is known by the bar or its employee, disable play of the device and promptly notify the organization. Otherwise, the bar or its employee is responsible for any cash shortage; and

g. Use an organization's loan of money only to redeem a credit ticket voucher. If the bar violates this rule, the attorney general may suspend any or all games at the site for up to six months.

2. A bar employee may not access, attempt to access, or permit a person, other than an employee of an organization, to access the interior of an electronic pull tab device for any reason.

3. If a bar employee believes there is a problem with an electronic pull tab device or there is a problem with a redeemed credit ticket voucher, the bar employee shall contact the charitable gaming organization and may disable the device from play.

4. A bar may accept or not accept a gaming-related check from a player. A player's check must be payable to a bar. A bar is responsible for a player's check returned by a financial institution as uncollectible. A bar 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 the redemption of a credit ticket voucher.

5. Only a bar employee who is authorized by a bar may redeem a credit ticket voucher.

6. A bar employee may not summarize or audit an electronic pull tab game for an organization.

History: Effective July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-06.1-04. Requirements of a bar and an organization.

1. A bar employee or an organization employee shall ensure that a credit ticket voucher presented for redemption is valid. This includes ensuring the voucher was issued by an electronic pull tab device at the site and on the date it is presented for redemption. A valid credit ticket voucher must be paid with cash and must have the date and initials of the person who redeemed the credit ticket voucher printed on it.

2. A bar employee or an organization employee may not:

a. Knowingly redeem a credit ticket voucher that has been defaced, tampered with, or counterfeited. If a player attempts to redeem a voucher that has been defaced, tampered

with, or counterfeited, a bar employee or an organization employee, if possible, shall retain and void the credit ticket voucher;

b. Knowingly redeem a credit ticket voucher that was issued at another site or a voucher that was issued prior to the day presented for redemption. If a player attempts to redeem a voucher that was issued prior to the day presented for redemption, a bar employee or an organization employee, if possible, shall retain and void the credit ticket voucher; and

c. Pay, from gaming funds or any other source, moneys to a player unless the player redeems an actual valid credit ticket voucher issued by an electronic pull tab device at the site and on the date it is presented for redemption.

3. If an electronic pull tab device malfunctions, is inoperable, and a player has credit on the device, a bar employee or an organization employee shall pay the player for the player's unplayed credits and record the refund on a credit redemption register. A bar shall provide this form to an 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 record the jam on a credit redemption register and notify an organization. If an organization determines that a device is cash long, the organization shall reimburse a player by cash or check.

4. A bar employee and an organization employee shall document and attest to the number of and total dollar value of redeemed credit ticket vouchers that are exchanged for cash or check. These credit ticket vouchers must be grouped, banded, dated, and retained separate from other credit ticket vouchers that an organization employee may have redeemed, by interim period.

5. An organization shall provide a bar employee and a bar shall maintain a current copy of subsection 8 of section 99-01.3-02-03 and sections 99-01.3-02-05, 99-01.3-02-09, 99-01.3-06.1-03, and 99-01.3-06.1-04 regarding the bar employee's and bar's duties and restrictions.

History: Effective July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-06.1-05. Recordkeeping.

Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. An interim period electronic pull tab device activity report according to subdivision a of subsection 16 of section 99-01.3-16-09.6. The report must be generated and printed for each device at a site each interim period.

2. Interim period site summary form. The information from each interim period electronic pull tab device activity report must be recorded on this form each interim period and must include for each electronic pull tab game conducted at the site, gross proceeds, prizes, and adjusted gross proceeds and totals for all games. It also must include total cash in each electronic pull tab device and in total, total credit ticket vouchers redeemed, including bar and organization employee redeemed if applicable, total credits paid if applicable, employee cash long or short if applicable, cash profit or loss, and bank deposit.

a. All system-generated interim period electronic pull tab device activity reports must be attached and retained with the interim period site summary.

b. All redeemed credit ticket vouchers exchanged for cash, bar and organization redeemed, must be retained with the interim period site summary.

3. Game summary report for each game. The game activity information from each interim period site summary, including gross proceeds, prizes, adjusted gross proceeds, cash profit, and cash long or short for each game conducted at a site must be posted to a game summary report. The game summary report must include cumulative totals. Total cash profit for the interim period at a site is allocated to each game based on the ratio of a game's adjusted gross proceeds to the total adjusted gross proceeds of all the games.

4. If an organization employee redeems credit ticket vouchers at a site, a daily employee report documenting the starting and ending cash on hand, IOU records according to section 99-01.3-03-06, and the number of and total dollar amount of credit ticket vouchers redeemed, credits paid, and cash long or short.

5. Credit redemption register, including the date, amount, if credits were still on the electronic pull tab device, player's name and signature, signature or initials of person who paid the player, bar reimbursement information if applicable, and date paid.

6. Cash profit as defined in subdivision e of subsection 8 of section 99-01.3-02-01.

7. An electronic pull tab closed game report according to subdivision d of subsection 16 of section 99-01.3-16-09.6. This report must be generated and printed after each electronic pull tab game is closed at a site. Printing the report prior to an electronic pull tab game being closed will cause immediate and automatic termination of a game. The summaries of all electronic pull tab games for a quarter must reconcile to the amounts reported on the gaming tax return.

8. Access log for each electronic pull tab device, which includes the date, time, reason for entry, and initials of the employee who accessed the device.

9. Deals in play report according to subdivision b of subsection 16 of section 99-01.3-16-09.6. The report must be generated and printed for each game at a site at the end of each month and retained with the records for the game.

10. Monthly and quarterly audit and reconciliation records according to subdivision f of subsection 16 of section 99-01.3-06.1-02.

11. Ideal cash bank master records according to subsection 5 of section 99-01.3-03-09.

12. Verification of the amount deposited according to a bank statement and an audit of each electronic pull tab game's activity according to subsections 6 and 7 of section 99-01.3-03-10.

13. The count and reconciliation of cash banks according to subsections 5 and 7 of section 99-01.3-03-09.

History: Effective July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-07

99-01.3-07-02. Recordkeeping.

Records must include and be retained for three years from the end of the quarter in which the activity was reported:

1. For each sports-pool board:
   a. The sold board with the state gaming stamp affixed which must indicate the winning square or line;
   b. The daily starting and ending cash on hand and IOU records according to section 99-01.3-03-06;
   c. Cash profit as defined in subdivision ~~h~~i of subsection ~~7~~8 of section 99-01.3-02-01;
   d. The type of professional sport and amount of each prize;
   e. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all sports-pool boards conducted during a quarter must reconcile to the activity reported on a tax return; and
   f. Prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08; and
   g. Inventory records according to subsection 1 of section 99-01.3-03-09.
2. Ideal cash bank master records according to subsection ~~4~~5 of section 99-01.3-03-09.
3. Verification of the amount deposited according to a bank statement and an audit of the event's activity according to subsections 6 and 7 of section 99-01.3-03-10.
4. The count and reconciliation of sports-pool boards and cash banks according to subsections 1, ~~4~~5, and ~~6~~7 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-08-04. Video surveillance system.

If a site had twenty-one gross proceeds averaging ten thousand dollars or more per quarter for two entire consecutive quarters, this level of activity is expected to continue, and wagers exceed two dollars, an organization shall have a video surveillance system operational at the site within forty-five days from the end of the second quarter. However, for a site with seasonal activity, this level of activity is based on the average gross proceeds of the active quarters within the fiscal year July first through June thirtieth. A level of activity is based on a site's recent historical experience, but not earlier than the previous fiscal year, regardless of which organization conducted twenty-one at the site. If an organization conducts twenty-one at a newly acquired site that has a level of activity requiring a video surveillance system, it shall have the system for a table operational within forty-five days of conducting twenty-one or limit wagers to two dollars until the system is operational. A system must be operational for each twenty-one table that is regularly located on a site, regardless of how infrequent a table is used or the value of wagers accepted at the table. A temporary table that is brought onto a site for fourteen or fewer consecutive days for a special event according to subsection 4 of section 99-01.3-01-02, but for not more than two events per quarter, does not need a system. An organization shall:

1. Install a system that meets these requirements:

   a. A recording unit must record in real time. A video system must be approved by the attorney general and no time lapse or multiplex video recorders may be used as the primary mode of operation. A recording unit must be secured in a locked vented cabinet or area, plugged into an outlet that cannot be switched off, and be programmable with a minimum seven-day memory backup. A recording unit must have a built-in or separate time and date generator that displays the time and date on the recorded video without significantly obstructing a recorded picture. A playback unit used to review a recorded video must have forward and reverse frame-by-frame and high-speed scanning capability;

   b. A high-resolution color camera must be positioned above the center of a table and record gaming activity from the dealer's perspective. A camera must be plugged into a surge protector and use an outlet that cannot be switched off. A camera must be protected by a slotted or clear dome;

   c. A camera 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 color video monitor onsite; and

   e. A system must be capable of allowing organizations to download, burn, or copy files onto a storage device.

2. If an organization conducts twenty-one or paddlewheels at more than one site, a table must have a site identification. A site identification and any table number must be visible on a recorded video.

3. A playing surface must be green and may not contain imprinted graphics, excluding the tip betting spaces, unless authorized by the attorney general. Red or maroon and black jumbo-faced playing cards may be used.

4. Maintain a clean dome and a proper field of view on the playing surface.

5. Authorize only a gaming or shift manager or an independent person to:

   a. Access a recording unit, camera, and stored recorded video;

b. Start and stop a recording unit for 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; and

c. Change a recorded video in a recording unit for a table at the beginning, during, or at the end of a day's activity, regardless if the authorized person is a dealer or wheel operator at the site. An organization may use two real time recorders in sequence to record a table's activity that exceeds the recording capability of one tape. If two recorders are used for one table, their separate recordings for a day's activity must overlap by ten minutes.

6. Retain a recorded video in a safe storage place for thirty days.

7. On a daily basis an employee shall review and document that a surveillance camera at each twenty-one and paddlewheel table at a site is recording an unobstructed view and clear picture of the table activity. If a recording unit or camera for a table is not properly operating or not producing an unobstructed view and clear picture of the cards, currency, or chips and is not repaired or remedied within forty-eight hours of activity on the table or four calendar days, the organization shall close the table or limit wagers to two dollars on the table until the equipment is repaired.

8. The attorney general's current recordkeeping system must be used unless approval is obtained from the attorney general for use of another recordkeeping system. An organization shall track a dealer's and wheel operator's percent-of-hold performance.

9. For a site that requires video surveillance, if percent-of-hold at that site is less than ten percent for twenty-one and less than fifteen percent for paddlewheel for a quarter, a minimum of one hour per week of video surveillance for each active table at that site must be reviewed and documented during the period immediately after the percent-of-hold for the quarter has been determined. The review of video surveillance must be continued for six continuous weeks or until the organization has determined and documented the reason the percent-of-hold is less than ten percent for twenty-one and less than fifteen percent for paddlewheel at that site. The review must be completed by an individual who did not conduct twenty-one or paddlewheel at the site on the ~~day~~shift selected for review. ~~The review of video surveillance must be continued until the organization has determined and documented the reason the percent-of-hold is less than ten percent at that site.~~

10. An organization may purchase or lease a camera, lens, cable, camera dome, digital recording device, time and date generator, and installation services, including moving a camera to another site, from a vendor approved by the attorney general, or any other business entity. If purchasing or leasing the equipment from an approved vendor, an organization shall defer remitting at least fifty percent of the cost or lease price of this equipment to the vendor until the attorney general approves the clarity of the recorded video for a table.

11. An organization shall provide the attorney general with a sample recording to evaluate. If an organization acquires video surveillance equipment at a new site from another organization, moves a camera or table to another location at the site, or changes video surveillance equipment at a site, the organization shall, within fourteen days, provide the attorney general with a sample recorded video to evaluate. If the quality of the sample recording is not satisfactory, an organization and vendor shall resolve the deficiency and resubmit a sample recording for approval. An organization may buy or lease a qualifying item from another organization.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-10, 53-06.1-11

99-01.3-08-05. Distributing and removing chips.

1. A fill slip must be used to distribute casino and betting chips from a chip bank to a table and a credit slip to return chips from the table to the chip bank. An organization may not transfer or exchange chips directly between two tables. An organization shall use a fill and credit slip to temporarily transfer a chip tray to or from a table and jar bar. Access to a fill and credit slip must be restricted to an authorized person. The same fill and credit slip format may be used for both twenty-one and paddlewheels.

2. A fill slip and credit slip must be separate forms. Fill and credit slips must be mechanically or electronically consecutively numbered two-part carbonless forms, be used in sequential order, and be all accounted for. Originals and copies of voided fill and credit slips must be marked "VOID" and be initialed by the preparer.

3. A fill slip must be prepared by a chip bank cashier, pit boss, or shift manager. A credit slip must be prepared by a dealer, wheel operator, pit boss, or shift manager. The original and copy of a fill and credit slip must contain:

   a. Reference to twenty-one (21) or paddlewheels (PW), site, date and time (including a.m. or p.m.), and a table number;

   b. Quantity and total value of chips, by value, and grand total value of chips; and

   c. For a fill slip, the initials of a chip bank cashier or dealer acting in the capacity of the cashier. ~~However, if a dealer is the only employee on duty, this person shall initial the fill slip.~~ For a credit slip, the initials of a dealer or wheel operator.

4. After preparation of a fill slip, a chip bank cashier or dealer acting in the capacity of the cashier shall retain the original~~. However, if a dealer is the only employee on duty, this person shall retain the original~~ with the daily records. After preparation of a credit slip, a dealer or wheel operator shall deposit the original in a drop box.

5. If an organization has a shift manager or authorized employee on duty who is not presently dealing or operating a paddlewheel, this person shall verify the quantity and value of the chips, initial the original part of the fill or credit slip, and 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.

6. A dealer or wheel operator shall verify the information on the copy of a fill slip and, if correct, initial and deposit it in a drop box. A cashier or dealer acting in the capacity of the cashier shall verify the information on the copy of a credit slip and, if correct, initial and retain it~~. However, if a dealer is the only employee on duty, the dealer shall retain the copy of a credit slip~~ with the daily records.

~~7. As an option, an organization may have:~~

   ~~a. A dealer or wheel operator initial the original part of a fill slip before it is retained by a chip bank cashier; and~~

   ~~b. A chip bank cashier initial the original part of a credit slip before it is retained by a dealer or wheel operator.~~

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-08-13. Disclosure.

The following rules and notice must be posted or made available to players. If made available to players, the rules and notice must be in the form of a handout that is easily visible to the players and may not be a copy of the gaming law and rules:

1. ~~HOUSE RULES~~House rules:
   a. Minimum and maximum betting limit; and
   b. Use Hole-Card-No-Peek method of dealing or ~~Use~~use Hole-Card with Card Reading Device method of dealing or ~~Use~~use No-Hole-Card method of dealing ~~(Choose one)~~.
2. ~~PLAYER RULES~~Player rules:
   a. Must compute the card count of the player's hand;
   b. Must be twenty-one years of age or older;
   c. Hand signals must be used;
   d. No touching of cards;
   e. Two betting spaces maximum;
   f. No side bets;
   g. No payoff on tie counts;
   h. Splitting on any pair and two 10-count value cards and limited to a maximum of ~~4~~four hands per betting space;
   i. Doubling-down on the first ~~2~~two cards dealt or the first ~~2~~two cards of any split hand, except on split aces;
   j. Double-down bet must equal the original wager or ~~Double-down~~double-down bet may be equal to or less than the original wager ~~(Choose one)~~;
   k. Insurance not permitted or ~~Insurance~~insurance permitted - pays ~~2~~two to ~~1 (Choose one)~~one;
   l. Tip betting permitted or ~~Tip~~tip betting not permitted ~~(Choose one)~~; and
   m. Doubling-down on tip bets permitted - must equal the original tip bet or ~~Doubling-down~~doubling-down on tip bets permitted - may be equal to or less than the original tip bet or ~~Doubling-down~~doubling-down on tip bets not permitted ~~(Choose one)~~.
3. ~~NOTICE~~Notice: If a person knowingly uses a fraudulent scheme or technique to cheat or skim involving twenty-one, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-10

99-01.3-08-16. Recordkeeping.

Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For each day's activity:

   a. The starting and ending cash and chip banks and IOU records according to section 99-01.3-03-06;

   b. Drop box cash and values of fill and credit slips of each table;

   c. Cash profit as defined in subdivision ~~i~~j of subsection ~~7~~8 of section 99-01.3-02-01;

   d. Daily surveillance review log;

   e. For tournament play, the fees; rebuys; add-ons collected; name of each player, signature or initials, and date of the employee who collected the fee

   f. For tournament play, prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08;

   g. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all twenty-one activity for a quarter must reconcile to the tax return; and

   h. For a video surveillance system, dealer percent-of-hold information and video review documentation must be retained for one year from the end of the quarter of the activity.

2. Inventory records according to subsection ~~5~~6 of section 99-01.3-03-09.

3. Ideal cash bank master records according to subsection ~~4~~5 of section 99-01.3-03-09.

4. An organization using a combined cash bank for twenty-one and paddlewheel at a site shall allocate the cash long or short of the combined cash bank to twenty-one.

5. Verification of the amount deposited according to a bank statement and an audit of the game's activity according to subsections 6 and 7 of section 99-01.3-03-10.

6. The count and reconciliation of cash banks and casino and betting chips according to subsections ~~4,~~ 5, 6, and ~~6~~7 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-09

99-01.3-09-02. Definitions.

1. "Action" is a binding verbal statement or physical gesture of intention.
2. "Add-on" is the last opportunity a player has to buy additional chips in an attempt to better the player's chances to win in a tournament that allows the additional purchase of chips. The amount and time restriction is found in the tournament rules.
3. "Ante" is a player's forced bet of a predetermined amount into the pot before the first card of the hand is dealt.
4. "Bet" is the act of making a wager on a betting round.
5. "Betting round" is a complete cycle in a hand of poker after all players have called or folded.
6. "Blind bet" is a forced bet made before the first card of the hand is dealt. A small blind, which is usually one-half of a minimum bet, is made by the first player to the left of the dealer button and a big blind, which is usually the minimum bet amount, is made by player to the left of the first player.
7. "Button" is a token ~~that is rotated clockwise among the players~~used to indicate the dealer position at the table for determining the order of betting.
8. "Bounty" is a feature in some poker tournaments that rewards a player for eliminating another player. Bounties must be of equal value and no bounty may be of an unknown value.
9. "Buyin" is the minimum amount of money required to enter a tournament in exchange for a set amount of chips.
10. "Call" is to match a bet or match a raise.
11. "Check" is to waive the right to initiate the betting in a round, but to retain the right to call.
12. "Chip dumping" is a strategy whereby one player deliberately loses chips to another player.
13. "Community cards" are cards dealt face upward which can be used by all players to make their best hand.
14. "Deal" is the distribution of playing cards among the players.
15. "Flop" is the first three community cards dealt face up at one time.
16. "Fold" is a player discarding a hand during a betting round by refusing to match a bet.
17. "Hand" is a game in a series beginning with a shuffle and ending with the awarding of a pot. It is also used to describe the cards held by a player, or the best five cards of a player's holding.
18. "Misdeal" is a hand in which a dealing mistake was made and requires the hand to be dealt again.
19. "Open", "openers", "to open", is the first bet in any betting round.
20. "Poker run" is an event in which each participant in the event follows a charted course, stopping at five to seven checkpoints along the route to pick up a single playing card. Upon all participants' arrival at the final checkpoint, a showdown of the poker hands is conducted and prizes are awarded.

21. "Pot" is a collection of the total amount wagered by all players at a poker table for a hand and awarded to the winning players.

22. "Raise" is a bet in an amount greater than the immediately preceding bet in that betting round.

23. "Rebuy" is when a player qualifies to purchase another buyin during a tournament that allows a player to continue competing in the tournament. The number and time restriction are found in the tournament rules.

24. "Satellite" is a qualifying tournament in which the prizes awarded must include a buyin to a larger tournament.

25. "Showdown" is the revealing of each player's hand by the player after the last bet to determine the winners of the pot.

26. "Side game" is a poker game running concurrently with a tournament and made up of players who have either been eliminated or opted not to play in the tournament.

27. "Soft play" is failing to bet or raise in a situation that would normally merit it; to intentionally go easy on a player.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.2

99-01.3-09-03. Limitations and fees.

1. An organization may only conduct poker on two occasions per fiscal year. An occasion may include more than one authorized site. A nontournament occasion and a side game are restricted to a twenty-four-hour period of play. Tournament activity, including any satellite activity, is an occasion of not more than three consecutive calendar days of play. Both tournament and nontournament play may occur as part of the same occasion provided that the nontournament play and a side game does not exceed a twenty-four-hour period of play.

2. Only a licensed distributor can provide consulting services to an organization for a poker occasion provided the licensed distributor does not manage, control, or conduct the game. ~~Employees of the licensed distributor may not participate in the poker occasion.~~

3. For nontournament play and a side game, if an organization does not provide a dealer, players shall use cash. If an organization provides a dealer, players shall use chips. An organization shall charge a player a fee not to exceed two dollars per one-half hour of playing time and collect the fee in advance. An employee shall record the fee when it is collected. The fee schedule must be posted or made available to players.

4. For a tournament, an organization may provide a dealer who cannot play in the game or allow the players to alternate as dealers and:

   a. Types of poker authorized is limited to Texas hold'em and Omaha.

   b. Use no-value chips.

   c. Advance players with the most number of chips from each round to the next round or championship round. A player with the most number of chips, based on a championship round, wins. Any remaining players in the tournament may agree to split the prize rather than finish the tournament.

d. An organization may award a buyin to a larger tournament to multiple winning players of each satellite tournament. It is accounted for as a prize and valued at the cost of the buyin. If a satellite buyin prize is transferable to another player, an organization shall issue a receipt for the buyin prize. When a buyin prize is redeemed, it is accounted for as gross proceeds. If a buyin prize is not redeemed, it is valued at zero and is not accounted for as a prize for the satellite tournament nor as gross proceeds for the larger tournament.

e. Bounty buyin fees and payouts, if applicable, must be included as part of the gross proceeds and prizes of a tournament.

f. Only a cash prize or buyin to a larger tournament may be awarded and the total prizes awarded may not exceed ninety percent of all fees collected.

g. After the start of the tournament, an organization may not refund a buyin or other fee collected.

h. A director of a tournament and the organization employee managing, conducting, or controlling the poker activity may not participate in the tournament.

5. ~~An organization shall establish and post tournament rules for each poker occasion and indicate the buyin fee for satellite tournaments and the main tournament. Any restrictions regarding rebuys and add-ons, if allowed, must be provided in the tournament rules.~~

~~6.~~ An organization that conducts poker through a poker run involving more than one site shall comply with guidelines prescribed by the attorney general.

History: Effective May 1, 1998; amended effective July 1, 2002; October 1, 2006, July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.2

99-01.3-09-04. Conduct and play.

1. The cards are ranked ace, king, queen, jack, ten, nine, eight, seven, six, five, four, three, and two. A poker hand in a showdown consists of five cards, usually the best five selected from a greater number, ranked according to the following from highest to lowest:

   a. Royal flush--the best hand of the same suit in sequence of ace, king, queen, jack, ten;

   b. Straight flush--five cards of the same suit in sequence;

   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; an ace may be low in a five-high-card straight;

   g. Three of a kind--three cards of the same rank;

   h. Two pair--two cards of the same rank and two cards of one other rank;

   i. One pair--two cards of the same rank; and

   j. High card--the highest ranking card in the hand.

2. The cards in the game of poker must be one complete standard deck of fifty-two cards. The design on the back of each card in the deck must be identical, and no card may contain any marking, symbol, or design that enables a player to know the identity of any element printed on the face of the card. The backs of the cards may contain a logo. The backs of the cards in the deck must be designed to eliminate the ability of any person to place concealed markings on them.

3. The organization shall have additional decks of cards available at the site. The color of the backs of the cards of the replacement decks must be of a different predominant color.

4. When cards are brought to the poker table, an organization employee first shall approve the deck of cards. The deck must be sorted into sequence, by suit and the back of each card inspected to assure all cards are present and none are taped, cut, shaved, marked, defaced, bent, crimped, or deformed.

5. Before the play, the dealer, in front of the players, shall spread the cards face upwards on the table, according to suit and in sequence within the suit for review by the ~~first player~~players. After ~~a player's~~ review, the cards must be shuffled so the cards are randomly intermixed. If a replacement deck is used, this step must be repeated.

6. Before starting play, and after each hand, the dealer thoroughly shall shuffle the cards. Then the dealer shall cut the cards by placing a portion of the deck on top of a cutting card. The dealer then shall restack the cards with the former bottom part of the deck on top.

7. Cards must be dealt out of the hand by the dealer. Dealing must start with the first player to the left of the dealer or button. A card dealt must be the top card of the deck. After the first card of the hand has been dealt to a player, the deal continues in a clockwise direction. The order of cards in the deck may not be disturbed during the deal of a round.

8. The first holder of the button shall be determined at random by dealing for the high card or a set position before seat assignment. If two or more players have the same ranked card, card suit will determine high card. From best to worst, suits rank spades, hearts, diamonds, and clubs. ~~After each hand, a button must be moved around the table clockwise, player to player, so that the player who has the button receives the advantage of playing and betting last.~~

9. An ante may be used in the game at the discretion of the organization. The player shall ante for each hand by placing wagers equaling the ante in front of the player on the table before the first card of the hand is dealt. The dealer shall sweep the antes and place them in the pot. Once the first card is dealt to any player, the ante may not be altered.

10. If an organization allows blind bets, the first betting round is started by the player to the left of the big blind by opening or folding and each following player shall call, raise, or fold; otherwise the player to the left of the button shall check, open, raise, or fold and each following player shall check, call, raise, or fold. A player shall match or raise the previous bet amount to remain in the hand. Subsequent betting rounds are started by the first active player to the left of the button. A betting round ends when all players have had a chance to act and all players who haven't folded have wagered the same amount for the round.

11. If a table only has two players remaining (heads-up), the small blind is posted by the player that has the button. When play becomes heads-up, the player who had the big blind the most recently, is given the button and the other player is given the big blind. The player with the button shall be the first player to act on the first betting round and last to act on the subsequent betting rounds.

12. A card that is meant to be dealt face downward but is dealt face upward or flashed as it is dealt so that a player might know its identity or is dealt off the table is considered an exposed

card. A card exposed by a player is not an exposed card. ~~An exposed card must be replaced except in the game of stud poker in which the correction may be made by dealing the next card down.~~ The replacement of an exposed card must be done after all players have received their cards in that round.

13. A misdeal occurs when during the initial deal a player receives an incorrect number of cards, an active player is dealt out or cards are dealt to an inactive empty seat at the table, or cards are dealt out of sequence. A misdeal causes all of the cards to be returned to the dealer for a redeal. A misdeal may not be called once substantial action has occurred. "Substantial action" is defined as either three players acting by betting or folding or two players acting, if one of them has raised the pot.

14. An organization shall adopt a burn card procedure in which one card will be burned either after each round of betting or before dealing any additional cards.

15. ~~If a player bets but announces a fold, the player has a dead hand and the bet remains in the pot.~~

~~16.~~ A statement by a player of "call" or "raise" or of a specific bet is binding. A player who states a certain amount but puts a different amount into the pot shall correct the bet to the stated amount. ~~If the player placed an amount greater than the stated amount into the pot, the dealer shall correct the bet.~~

~~17. A player who makes a bet, decides incorrectly that the player has no live hand against the play, and concedes the hand by throwing it into the discard pile loses the pot.~~

~~18.~~16. A player who unintentionally bets less than the amount required to call shall complete the call or ~~withdraw the partial bet in full. A player who shows that the player is unaware of the raise by calling only the amount of the bet before the raise may withdraw the bet and~~ fold. An improper bet must stand once three players have called, a player has raised, or all players in the pot have acted; otherwise, the action must back up to the player making the improper bet and any other action is nullified. A player makes a bet if the bet is pushed forward or placed into the pot at a sufficient distance from the player to make it obvious that the player intends to bet. If the situation is unclear and a player allows the dealer to pull the player's bet into the pot without making an immediate objection, it is a bet.

~~19.~~17. If a player ~~calls but~~ places a single-chip wager into the pot that is larger than the bet, it must be regarded as a call unless the player announces a raise. ~~The player may clarify the apparent call as a raise only if no other player behind the player has placed a bet into the pot or announced a call or raise. The dealer shall provide the player with change of chips, if necessary, at the time the bet is placed.~~ If a multi-chip wager is fifty percent or greater of a legal raise then the minimum raise must be completed.

~~20.~~18. A fouled hand is a hand that ~~either~~ has an improper number of cards, unless the player is short a card and due to get the top card of the deck~~, or has a card that has come into contact with discards~~. If a player has a fouled hand by having too many cards, that hand is dead and cannot win any part of the pot. ~~Except for games of low draw and high-low split draw, a player may play with too few cards as long as the player can make a hand.~~

~~21.~~19. If a player discovers that the hand is fouled, the player cannot recover any wagers placed into the pot unless a misdeal can be called. If a player with a fouled hand makes a bet or raise and the next player has not yet acted, the next player may call attention to the fact that the hand is fouled. The dealer shall return the player's bet to the player with the fouled hand and betting may resume.

~~22.~~20. No player may deliberately foul a hand to recover a bet or make an attempt to win the pot by betting or raising after the player has discovered that the player's hand is fouled. If the dealer determines that a player has intentionally bet a fouled hand, the dealer shall rule that all of the player's wagers remain in the pot and the player's hand is dead.

~~23.~~21. When an active player exposes the player's hand to another active player, all other players at the table have the right to see the exposed hand. ~~If the player who exposed the hand or the player who saw the exposed hand refuses, both hands must be declared dead.~~

~~24.~~22. If a card is improperly faced in the deck, it must be treated as a dead card and replaced by the next card below it in the deck.

~~25.~~23. At the conclusion of the final betting round, a player shall place the player's hand face upward on the table at the showdown as follows:

a. If there has been a bet on the final round, the player who made the bet shall show first;

b. If there have been one or more raises on the final round, the player who last raised shall show first;

c. If the final round has been checked by all the players, the player who acted first shall show first;

d. The subsequent order of showing hands is clockwise around the table from the player who shall show first; and

e. If there is a side pot, players involved in the side pot shall show their hands before any player who is "all-in" for only the main pot.

~~26.~~24. If two or more players remain in the pot after all of the cards have been dealt and the betting is over for that hand, the remaining players show their cards to determine which player has the best hand and wins the pot. A player may discard a hand without showing it. A player shall show the hand at the showdown if requested to do so by ~~the dealer or~~ management. ~~If the player refuses to show the hand upon such a request, the player shall leave the game. The player with the winning hand shall show all cards before the pot is awarded.~~All hands will be shown without delay once a player is all-in and all betting action by all other players in the hand is complete. No player who is either all-in or has called all betting action may muck his hand without showing. All hands in both the main and side pots must be shown and are live. The following provisions govern showdown:

a. A hand with too many cards for that game is dead;

b. A hand is ranked according to the actual cards it contains. The cards speak for themselves;

c. A hand that is prematurely discarded by a player and touches the discarded cards is dead unless it is one hundred percent identifiable and retrievable;

d. A verbal concession is ~~not~~ binding;

e. A player who leaves the table conceding the pot shall discard the hand;

f. A hand discarded face upward is a live hand if it has not become irretrievably mixed with the discards;

g. A hand discarded face downward may be retrieved if the following conditions are met:

(1) The player retrieves it or requests the dealer to turn it face up; and

(2) ~~The hand has not touched any discards;~~

~~(3)~~ Another player has not been induced to discard the other player's hand;

h. A hand discarded face downward that is not retrievable is dead even if it had been shown before being discarded;

i. A player is responsible for ~~holding onto their cards~~protecting their hand until a winner is declared; and

j. ~~If the dealer discards the winning hand without the player's approval, the player is entitled to the pot if it is claimed before being taken in by another player; and~~

~~k. A player who remains silent has not given approval for the dealer to discard the player's hand. The player shall positively approve the dealer's action~~Dealers cannot kill a properly shown and tabled hand that was obviously the winner.

~~27.~~25. At a showdown if two or more hands are tied, the hand with the highest ranked card or cards for high poker games and the lowest ranked card or cards for low poker games 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. In high-low split poker games, the highest hand and the lowest hand split the pot. A player who wins in one direction (high or low) and ties a player for the other direction, receives three-quarters of the pot. A player who wins in both directions without a tie receives all of the pot. Aces may be used for either high or low.

~~28.~~26. Pots must be awarded by the dealer. ~~When the dealer has awarded a pot and it has been taken in by a player without a claim against it, the award stands. No player may make an agreement with any other player regarding the pot.~~ A game must be played to conclusion and the pot awarded to the winning player. The reading of a shown hand may be disputed until the next hand begins. Accounting errors in calculating and awarding the pot may be disputed until substantial action occurs on the next hand. If a hand finishes during a break, the right to any dispute ends one minute after the pot is awarded.

~~29.~~27. If using chips, and a pot that is split by having tied hands at the showdown has an odd chip, the chip is awarded to the player with ~~the highest ranking card~~a live hand clockwise from the dealer button. This section does not apply to splits between the high and low hands in high-low poker. If the lowest denomination chips in the pot are unable to be used to split the pot evenly, the dealer shall exchange the chips in order to divide split pots as evenly as possible.

~~30.~~28. If a defective deck is used, all wagers in the pot must be returned to the players in the amount each contributed. A player who knows the deck was defective and attempts to win the pot by a bet is not entitled to the player's wagers in the pot. Such wagers must remain in the pot as a forfeited amount for the next game. A player who won a pot is entitled to keep it, even though the deck is subsequently found to be defective.

History: Effective May 1, 1998; amended effective July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-09-05. Tournaments.

Except as provided by this section, an organization shall conduct a poker tournament according to this chapter.

1. An organization shall post tournament rules and a written schedule for each tournament and satellite tournament. A schedule must contain:

a. Name of the site and organization;

b. Date or dates of the poker tournament;

c. Structure of the tournament prize payouts, once determined; and

d. Buyin, fees, add-ons, rebuy, and bounty options.

2. Each table will set a maximum of eleven players. Players will be distributed as evenly as possible between all tables.

3. A seat assignment is determined at the time of the buyin by the player randomly drawing a card from a specially marked deck or custom cards.

4. Tournament chips will be distributed directly to the player.

5. Texas hold'em must be played according to the following rules:

a. The dealer shall deal two (hole) cards to each player, face downward, and one at a time. The first player to receive a card is the player to the left of the player who has the button. The last player to receive cards is the player assigned the button. After each player has received two cards, there is a betting round and the players may bet an amount not more than the posted table limit;

b. The dealer shall discard the top card of the deck and place it in the discard card pile (burn a card) and deal three community cards from the deck face upward, in the center of the table. After the flop, another betting round occurs; and

c. The dealer burns another card and then deals a fourth community card face upward in the center of the table. Another betting round takes place. The dealer burns another card before dealing the fifth community card face upward in the center of the table for the final betting round. A player shall make the best five card hand using any combination of hole and community cards. If there are two or more players remaining in the game after all bets are made, there is a showdown. The highest hand wins the pot.

6. Omaha poker must be played according to the following rules:

a. The dealer shall deal four (hole) cards to each player, face downward, and one at a time. The first player to receive a card is the player to the left of the player who has the button. The last player to receive a card is the player assigned the button. After each player has received four cards, there is a betting round;

b. The dealer shall discard the top card of the deck and place it in the discard card pile (burn a card) and deal three community cards from the deck face upward, in the center of the table. After the flop, another betting round occurs;

c. The dealer burns another card and then deals a fourth community card face upward in the center of the table. Another betting round takes place. The dealer burns another card before dealing the fifth community card face upward in the center of the table for the final betting round. A player shall use two hole cards and three of the community cards to make their best hand. If there are two or more players remaining in the game after all bets are made, there is a showdown. In Omaha high, the highest hand wins the pot. In Omaha high-low split, the highest hand and the lowest hand split the pot. A player who wins in one direction (high or low) and ties a player for the other direction, receives three-quarters of the pot. A player who wins in both directions without a tie receives all of the pot. Aces may be used for either high or low.

7. A player confronted by a bet larger than the player's stack of chips may call "all in" and place the chips into the pot as a call. The excess part of the bet is either returned to the bettor or used to form a side pot with another player or players by matching the amount called. There is no limit on the number of side pots. Play must continue and the ~~player who is "all in" shall receive cards as other active players. The~~ remaining players shall place their bets into the side pot or pots. At the showdown, if the player who is "all in" has the high hand, the player wins the pot. The player with the second highest hand wins the side pot. If the player who is "all in" does not have the highest hand, the player with the highest hand wins both pots. In a high-low game, a similar procedure must be used to award the pots to the highest and lowest hand. A player who is "all in" and loses must leave the table or rebuy, if applicable.

8. A player may call "all in" at any time during a betting round provided that the bet does not exceed the tournament limit.

9. Chips may not be transferred or purchased from another player.

10. All chips must remain visible on the table throughout the event.

11. If a player is absent from the seat at the start of the initial deal of the hand, any ante or blind bet will be posted by the dealer on the player's behalf. A player shall be at the table by the time all other player's receive their hole cards in order to have a live hand for that deal.

History: Effective April 1, 2016; amended effective July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-09-06. Disclosure.

The following rules must be posted or made available to players. If made available to players, the rules must be in the form of a handout that is easily visible to the players and may not be a copy of the gaming law and rules:

1. ~~HOUSE RULES~~House rules:
   a. Must use one deck of cards which is dealt out of the hand;
   b. Must use a cut card to conceal the bottom card of the deck;
   c. May allow a blind bet and set a minimum table limit;
   d. May allow a minimum ante;
   e. May allow a maximum of three raises per betting round; and
   f. Must limit each raise to an amount equal to or greater than the original bet; however, each raise must be equal to or greater than the original bet of that betting round.
2. ~~PLAYER RULES~~Player rules:
   a. Must be twenty-one years of age or older;
   b. No side bets or credit play is allowed;
   c. Chips must remain visible on the table throughout the event;
   d. The use of any electronic device for communication at the table is prohibited while the player has a live hand;
   e. The placement of any electronic device on the table is prohibited; and

f. Ethical play: Any player who soft plays a hand shall be penalized. The penalty may include either chip forfeiture or disqualification or both. Any player involved in chip dumping and other forms of collusion shall be disqualified.

History: Effective April 1, 2016; amended effective July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.2

99-01.3-09-07. Recordkeeping.

Records must include and be retained for three years from the end of the quarter in which the activity was reported:

1. For each poker occasion:

   a. The starting and ending cash on hand and chips according to section 99-01.3-03-06;

   b. For nontournament play and a side game, the fees collected for each one-half hour interval on each table; number of players; time each fee is collected; and the name, signature, and time worked of the employee who collected the fee;

   c. For tournament play, including satellite games; the fees; rebuys; bounties; and add-ons collected, name of each player; signature or initials; and date of the employee who collected the fee;

   d. For tournament play, including satellite games, prize register according to section 99-01.3-03-07, and record of win according to section 99-01.3-03-08;

   e. Cash profit as defined in subdivision ~~j~~k of subsection ~~7~~8 of section 99-01.3-02-01;

   f. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all poker activity for a quarter must reconcile to the tax return;

   g. A copy of the tournament rules for each poker occasion;

   h. Receipts for transferred satellite buyin prize; and

   i. A copy of the tournament schedule according to subsection 1 of section 99-01.3-09-05.

2. Ideal cash bank master records according to subsection ~~4~~5 of section 99-01.3-03-09.

3. Verification of the amount deposited according to a bank statement, and an audit of the game's activity according to subsections 6 and 7 of section 99-01.3-03-10.

4. The count and reconciliation of cash banks according to subsections ~~4~~5 and ~~6~~7 of section 99-01.3-03-09.

History: Effective April 1, 2016; amended effective July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-10

99-01.3-10-01. Calcutta.

A "calcutta" is a sporting event in which players wager at an auction on the competitors. A sporting event is a competitive sport involving physical skill or endurance and scores a person's physical ability. The conduct of a calcutta is the auction process. An auction pool is comprised of the wagers paid by players who offered the highest bids on the competitors. The auction pool is distributed to the player who wagered on the winning competitor. The winning competitor may be one competitor, a team of competitors, or ranked competitors. The payout of the cash prize to a winning player is based on a predetermined percentage of the auction pool, which may not exceed ninety percent. Only cash prizes may be awarded.

1. A calcutta may only be conducted for a professional or amateur sporting event held in North Dakota, but not for an elementary, secondary, or postsecondary education sporting event. 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 event.

2. An organization shall acquire a calcutta board from a distributor and complete on it the sporting event, date of the sports event, and manner of distributing the auction pool as a prize. The requirements of the players must be posted or made available to the players on the site.

3. Each competitor in a sporting event shall be identified before the auction begins. A competitor may also be a player who may wager on oneself. A competitor may wager on another competitor.

4. Each competitor shall be eighteen years of age or older to be eligible to be listed on a calcutta board. Each eligible competitor shall be offered through an auction to prospective players. An organization may require that all eligible competitors be bid on and may set a minimum bid. A player who offers the highest bid for a competitor by a verbal, sealed, or open bid wagers on that competitor. A player may wager any amount and buy more than one competitor. A competitor may be auctioned off only to one player. An organization may not bid on a competitor.

5. An open bid enables a potential player, during a certain time, to write the player's name and bid for a competitor on a register assigned that competitor. Each successive potential player interested in that competitor shall write the player's name and bid, of an amount higher than the previous bid, on the register. When the time period ends, the last player listed on the register wagers the amount bid on that competitor.

6. An organization shall conduct an auction at its site that may be where the sporting event is held. A player shall be present to bid.

7. Before an auction, an employee shall:

   a. Verbally announce the predetermined percentages of the auction pool that will be paid to a winning player and retained by an organization. The amount a player may win depends on the total amount of the auction pool and not on any odds; and

   b. Complete for each line on a board a sequential number starting with the number one and a name of a competitor.

8. The sequence of a verbal bid auction must be determined by a random drawing of the numbers assigned each line.

9. If a competitor is not bid on by a player, an organization may sell the competitor by:

a. If there is more than one competitor not bid on, placing the competitors in one or more groups and auction a group as one competitor; or

b. Allowing a competitor to purchase oneself for a predetermined minimum wager.

10. After an auction, an employee shall complete this information for each line on a board and total the amounts wagered:

a. Full name and address of the player who bought the competitor; and

b. Amount wagered by the player.

11. If a competitor was bought by a player and does not compete in the event, an organization shall refund the wagered amount to the player and adjust the prize payout.

12. After a sporting event, an employee shall complete on the board, for each winning player, the amount of the auction pool won. A winning player is the player who wagered on the competitor who won the event. An organization may award the prize to a winning player where the event is held. If an eligible competitor was not bought by a player and wins or places in the event, the organization shall retain the prize that would have been awarded on the competitor. If an ineligible competitor wins or places in the event, the organization shall award the prize that would have been awarded on the competitor to the next highest ranked eligible competitor.

13. An organization shall make a good-faith effort to contact a winning player to award a prize. If a prize is unclaimed for thirty days following the notification or a player attempts to falsify or falsifies a record of win, the prize is forfeited.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.3

99-01.3-10-02. Recordkeeping.

Records must include and be retained for three years from the end of the quarter in which the activity was reported:

1. For each calcutta:

a. A calcutta board with the state gaming stamp affixed indicating the winning competitor and player;

b. The starting and ending cash on hand and IOU records according to section 99-01.3-03-06;

c. Prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08;

d. Cash profit as defined in subdivision ~~k~~l of subsection ~~7~~8 of section 99-01.3-02-01; and

e. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all calcuttas conducted for a quarter must reconcile to the tax return.

2. Inventory records according to subsection 1 of section 99-01.3-03-09.

3. Ideal cash bank master records according to subsection ~~4~~5 of section 99-01.3-03-09.

4. Verification of the amount deposited according to a bank statement, and an audit of the game's activity according to subsections 6 and 7 of section 99-01.3-03-10.

5. The count and reconciliation of calcutta boards and cash banks according to subsections 1, ~~4~~5, and ~~6~~7 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; April1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-11

99-01.3-11-03. Paddlewheel, table, chips, and video surveillance system.

1. A paddlewheel is a round mechanical vertical wheel, at least thirty inches in diameter, and may be divided into a maximum of five concentric circles. The outer circle must contain at least forty numbers or symbols. A paddlewheel may have house numbers or symbols for an optional odd or even bet. 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, be a different primary color, and correspond to the colored numbers or symbols of a table playing surface. The colored numbers or symbols of all concentric circles must be at least five-eighths of one inch in height.

2. A peg must protrude, on the circumference of a paddlewheel, between each section of the outside circle. A pointer must be positioned above a paddlewheel. It is used to stop a spin of a paddlewheel and determine the winning colored number or symbol.

3. A table must have:

   a. A chip tray and a rail for holding a player's chips;

   b. A playing surface which must be permanently imprinted with colored numbers or symbols of at least one and one-half inches in height relating to each circle of a paddlewheel. A table may have spaces for various wagers, including sets of numbers, colored numbers, symbols, and "ODD" and "EVEN" bets;

   c. Either a mirror to reflect or a color video camera and monitor to display the winning colored number or symbol on the paddlewheel; and

   d. A table must have a "drop box" that meets the specification of subsection 5 of section 99-01.3-15-02. A "drop box" must have a money plunger which must remain in the slot unless the plunger is used.

4. An organization shall issue solid color-coded sets of chips for betting purposes. No betting chip can be the primary color of mustard yellow. The number of different sets and number of chips within each set is based on an organization's discretion. Each chip must be permanently impressed, engraved, or imprinted on one side with an organization's name and the other side may have a stated value of one dollar. The name may be represented by a unique identification that differentiates an organization's chips from other organizations' chips. Each chip is valued at one dollar. An organization may issue casino chips in values of one dollar, two dollars, five dollars, twenty-five dollars, and one hundred dollars for paying a winning bet or exchanging a betting chip. A casino chip must meet the specification of subsection 3 of section 99-01.3-08-03.

5. An organization shall have a picture-in-picture or simultaneous recording video surveillance system on a table and paddlewheel. The system must meet the requirements prescribed by subsections 1, 2, 4, 5, 6, 7, 8, ~~and~~ 9, 10, and 11 of section 99-01.3-08-04.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.4

99-01.3-11-07. Recordkeeping.

Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For paddlewheel activity described by subsection 1 of section 99-01.3-11-01:

   a. For each day's activity, the starting and ending cash banks and IOU records according to section 99-01.3-03-06;

   b. For each ticket card of each series of paddlewheel ticket cards:

      (1) Date conducted, card number, cash prize amount or cost and description of a merchandise prize;

      (2) All winning tickets and unsold ticket cards which must be retained for one year from the end of the quarter in which the activity was reported on a tax return; and

      (3) The flare with the state gaming stamp affixed;

   c. Inventory records according to subsection 1 of section 99-01.3-03-09;

   d. The count and reconciliation of each series of paddlewheel ticket cards according to subsections 1 and ~~6~~7 of section 99-01.3-03-09;

   e. Prize register according to section 99-01.3-03-07; and

   f. Purchase invoice or receipt documenting the cost and description of a merchandise prize.

2. For paddlewheel activity described by subsection 2 of section 99-01.3-11-01:

   a. The starting and ending cash and chip banks and IOU records according to section 99-01.3-03-06;

   b. Drop box cash and values of fill and credit slips;

   c. Daily surveillance review log;

   d. Wheel operator percent-of-hold information ~~log~~and video review documentation must be retained for one year from the end of the quarter of the activity;

   e. Inventory records according to subsection ~~5~~6 of section 99-01.3-03-09;

   f. An organization using a combined cash bank for twenty-one and paddlewheel at a site, shall allocate the cash long or short or the combined cash bank to twenty-one; and

   g. The count and reconciliation of casino and betting chips according to subsections ~~5~~6 and ~~6~~7 of section 99-01.3-03-09.

3. For all paddlewheel activity:

   a. Cash profit as defined in subdivisions ~~i~~j and ~~l~~m of subsection ~~7~~8 of section 99-01.3-02-01; and

   b. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. For paddlewheel activity described by subsection 1 of section 99-01.3-11-01, a summary must be completed for each series of paddlewheel ticket

cards. The summaries of all paddlewheel activity for a quarter must reconcile to the tax return.

4. Verification of the amount deposited according to a bank statement and an audit of the game's activity according to subsections 6 and 7 of section 99-01.3-03-10.

5. Ideal cash bank master records according to subsection ~~4~~5 of section 99-01.3-03-09.

6. The count and reconciliation of cash banks according to subsections ~~4~~5 and ~~6~~7 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-12

99-01.3-12-02. Use and requirements of an organization.

1. A licensed organization may operate a pull tab dispensing device when the organization's employee is on duty and may have a bar employee redeem a winning pull tab when the organization's employee is or is not on duty.

2. If a distributor's or manufacturer's security seal is broken on a deal's container before the deal is used, an organization shall return the deal to the distributor.

3. The following rules must be posted or made available to players. If made available to players, the rules must be in the form of a handout that is easily visible to the players and may not be a copy of the gaming law and rules:

   a. Restricting access to or delaying using credits on a device is prohibited;

   b. A winning pull tab must be redeemed within fifteen minutes;

   c. A pull tab cannot be redeemed if it has been taken from the gaming area;

   d. If a person knowingly solicits, provides, or receives any inside information, by any person, by any means, or knowingly uses a fraudulent scheme or technique to cheat or skim involving pull tabs, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both; and

   e. If a player attempts to falsify or falsifies a record of win, the prize is forfeited.

4. An organization shall maintain custody of all keys to a device. ~~However, an organization may provide an authorized employee of a bar with a key to the cash compartment to withdraw currency or a drop box if:~~

   ~~a. A device's cash compartment is separate from its pull tab and accounting meter compartments. However, if access to a device's accounting meters is controlled by a security code, the cash and accounting meters may be in the same compartment;~~

   ~~b. The organization authorizes a specific employee of a bar to withdraw cash and complies with section 99-01.3-02-02 regarding a record check on the employee; and~~

   ~~c. If a drop box is not used, an authorized employee of a bar shall count the cash, record the amount, sign and date the record, and secure the cash and record in a keyless locking bank bag. If a drop box is used, an organization may not provide the authorized employee of a bar the key to access the contents of the drop box.~~

5. An organization shall withdraw currency from a device within a seven-calendar-day interim period.

6. An organization shall use the current recordkeeping system unless approval is obtained from the attorney general for use of another system.

7. An organization shall have a rental agreement conforming to section 99-01.3-02-06.

8. An organization shall maintain an access log prescribed by the attorney general. A person who accesses a device for any reason shall record the access and initial the log. When a person does a test vend which affects the accounting meters or a test validation of currency, the person shall record the value of pull tabs and currency validated. An organization shall retain the log in a device during the quarter of activity.

9. An organization may provide a bar with a temporary loan to enable a bar employee to redeem a winning pull tab. A loan and any increase in the loan must be made by check payable to the bar and be interest free. An organization may not access, count, or take custody of the loaned money. The duration of the loan must be until an organization discontinues conducting pull tabs at a site through a device. When the bar repays the loan, the organization shall deposit the funds in its gaming account and the deposit slip must reference the site, source of funds, and amount. The amount reimbursed to a bar must equal the value of redeemed winning pull tabs which the bar provides an organization. An organization employee may not use a bar's cash on hand for redeeming a winning pull tab.

10. An organization may not provide an independent service technician a key to access a device regardless if the device is leased.

11. If a theft of currency occurs, an organization shall record the currency and pull tab accounting meters or print a cash withdrawal report and audit the game. The organization shall provide a copy of all of this information to a local law enforcement agency and the attorney general.

12. When a game is closed:

    a. The game must be reported on a tax return for the site at which it was closed;

    b. An employee shall buy back all remaining redeemed winning pull tabs from a bar; and

    c. If the game has unsold pull tabs, these cannot be put back into play.

13. An organization or employee may not:

    a. Modify the assembly or operational functions of a device;

    b. Use or continue to conduct a deal of pull tabs after being notified by a distributor of a ban or recall of the deal;

    c. Designate a pull tab to entitle a player who buys it with a prize provided by a bar or distributor; or

    d. Intentionally test vend currency or pull tabs to synchronize nonresettable accounting meters.

14. A game must be conducted and played through a device as follows:

    a. The deals must be identical, except for a game serial number and color of the pull tabs;

    b. An employee shall securely attach a master flare to the interior or exterior of a device, or on an adjacent wall, so the flare's information is visible to players. When a deal is added, the deal's flare may be retained in a device or at an organization's office;

    c. An employee shall place at least one complete and one-third to one-half of a second deal in a device at the same time at the start of a game. The remaining pull tabs of any partial deal must be stored onsite and added to the game before any additional deals may be added. If during the quarter a deal is added to a game and the complete deal's tickets will not fit in a device, any remaining pull tabs of the partial deal must be stored onsite and added to the game before any additional deals may be added;

    d. At the start of a game the pull tabs must be randomly placed in all the stacking columns. To add pull tabs to a game, an employee shall first add any remaining pull tabs of a deal previously partially placed in the device or pull tabs of a new deal by randomly mixing these pull tabs with the pull tabs in the device;

e. If a deal is to be added to a game and an organization does not have a deal to add, the organization shall temporarily suspend the game until it procures a deal. However, if the organization is unable to procure a deal from the distributors and all the top tier winning pull tabs have been redeemed, it may close the game;

f. If a site's total gross proceeds of pull tabs averages twelve thousand five hundred dollars or less per quarter or if a site has not previously had gaming, a game may be closed anytime if all top tier winning pull tabs have been redeemed;

g. Except as provided by subdivision h, if a site's total gross proceeds of pull tabs averages more than twelve thousand five hundred dollars per quarter, no game may be closed unless an organization discontinues gaming at the site, or all the top tier winning pull tabs have been redeemed and a game has been in play for twenty-five consecutive calendar days;

h. An organization shall close a game by 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, an organization may close a game for the quarter within fourteen calendar days before the end of that quarter. An organization may start a new game for the next quarter within fourteen calendar days before the next quarter begins. However, an organization may not start a new game and end that game within this fourteen-calendar-day period. When a game is being closed, an employee shall post a sign stating that the game is being sold out;

i. If the percent-of-accuracy of all the games involving a device for a site for the previous quarter was less than ninety-eight and one-half percent, and a cash shortage of more than one hundred dollars, an employee who did not conduct the game, have sole access to the games in play, cash banks, and receipts or cash profit for the games, shall do a weekly interim audit of the games at the site for up to twelve continuous weeks or until the organization determines, resolves, and documents the cause. One of the weekly interim audits may be the audit required by subsection 7 of section 99-01.3-03-10. An organization shall start the weekly audits no later than the date on which its tax return for the quarter was filed with the attorney general. However, if games involving a device are conducted without a bar employee redeeming a winning pull tab, pull tab games not involving a device are also conducted, and the combined percent-of-accuracy of all pull tab games at the site for the previous quarter was ninety-eight and one-half percent or greater, no weekly interim audit is required. Percent-of-accuracy is computed as cash profit divided by adjusted gross proceeds; and

j. An organization may transfer a device from a site to another site or rotate a device among sites. If an organization discontinues gaming at a site, it may close a game or transfer the game to a device at another site. If a game is in the process of being conducted through a device, an organization may not transfer the game to a jar bar.

15. Two or more organizations may use devices at the same site on different days of the week provided the organizations use different names of games in the devices and the bar uses separate cash banks.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-12-03. Requirements of a bar.

1. A bar shall:

a. Place a device in a location where alcoholic beverages are dispensed and consumed and where a bar employee will regularly observe the device;

b. Prohibit a person from tampering or interfering with the operation or play of a device;

c. Have the electrical current to a device turned off unless alcoholic beverages may be dispensed, a bar employee or an employee is available to redeem a winning pull tab and a bar has cash on hand to redeem a winning pull tab;

d. Absorb a loss related to a ~~counterfeited~~counterfeit or lost pull tab, redeemed pull tab that was not bought at the site, and loss or theft of the temporary loan of funds;

e. Repay an organization's temporary loan of funds immediately upon request from the organization that discontinues conducting pull tabs through a device at a site;

f. If a malfunction of a device is known by the bar or its employee, turn the device off and promptly notify the organization. Otherwise, the bar or its employee is responsible for any cash shortage; and

g. Use an organization's loan of money only to redeem a winning pull tab. If the bar violates this rule, the attorney general may suspend any or all games at the site for up to six months.

2. A bar employee may not access, attempt to access, or permit a person, other than an employee of an organization, to access the interior of a device for any reason~~, except to withdraw currency or a drop box according to subsection 4 of section 99-01.3-12-02~~.

3. If a bar employee believes that a deal is defective or there is a problem with a redeemed pull tab, the bar employee shall contact an organization and may turn a device off.

4. A bar may accept or not accept a gaming-related check from a player. A player's check must be payable to a bar. A bar is responsible for a player's check returned by a financial institution as uncollectible. A bar 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. Only a bar employee who is authorized by a bar may redeem a winning pull tab.

6. A bar employee may not summarize or audit a game of pull tabs for an organization.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2010; July 1, 2012; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-12-04. Requirements of a bar and an organization.

1. A bar employee or an employee shall deface a winning number or symbol of a pull tab when it is redeemed. ~~If a winning pull tab ticket can be redeemed for credit through a dispensing device, the bar code on the ticket must also be defaced.~~ Tickets redeemed for credit through a dispensing device must be defaced by an employee of the organization at the time of the interim period site visit. All winning pull tab tickets with a bar code also must have the bar code defaced. If a pull tab has two or more winning prize patterns, a winning number or symbol of at least one pattern must be defaced.

2. A bar employee or 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 pull tab that has been defaced, tampered with, counterfeited, or has a game serial number different from the serial numbers of the deals in the game;

c. Knowingly pay a prize to a player who is redeeming a pull tab when the player with the pull tab has left the gaming area of a site;

d. Publicly display a redeemed pull tab;

e. Knowingly pay a prize for a pull tab after fifteen minutes has elapsed since it was bought. If a player attempts to redeem a pull tab after the allowed time limit, a bar employee or an employee shall, if possible, retain and void the pull tab;

f. Pay, from gaming funds or any other source, a prize to a player unless the player redeems an actual winning pull tab that has a game serial number from a game conducted at the site; or

g. Reimburse, from any source of funds, an amount to a player for play of a game that has a manufacturing defect or has an incorrect posting of information described by subsection 7, unless the attorney general approves.

3. A prize must be cash. There may be no last sale prize.

4. 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 and record the refund on a credit redemption register. A bar shall provide this form to an 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 record the jam on a credit redemption register and notify an organization. If an organization determines that a device is cash long, the organization shall reimburse a player by cash or check.

5. A bar employee and an employee shall document and attest to the number and value of redeemed winning pull tabs, by value and in total, that are exchanged for cash or check. These pull tabs must be grouped, banded, dated, and retained separate from other pull tabs that an organization employee may have redeemed, and separate from those redeemed through a credit redemption device, by interim period.

6. An organization shall provide a bar employee and a bar shall maintain a current copy of subsection 8 of section 99-01.3-02-03 and sections 99-01.3-02-05, 99-01.3-02-09, 99-01.3-03-08, 99-01.3-12-03, and 99-01.3-12-04 regarding the bar employee's and bar's duties and restrictions.

7. A bar employee or an employee may post the information referenced by subdivision a or b, or both, provided that an organization does not have a partial deal that is to be added to a device. An organization shall post a statement that the information is correct to the best of the organization's knowledge and that the information is not guaranteed to be accurate. If an organization does not have a policy on when to stop posting this information when a game is being closed, it shall stop posting the information when there are less than six winning pull tabs, through a level of prize value determined by the organization, that remain unredeemed. Posted information may be the information described in subdivision a or b, or both:

   a. The minimum number of unredeemed winning pull tabs or a range of numbers of unredeemed winning pull tabs, through a level of prize value determined by an organization, that will always be in a game unless the game is being closed. This information may be for each prize value or the total of several prize values. The level of prize value must be posted. If a pull tab has two or more winning prize patterns, the information must be based on the value of each prize pattern.

b. The number or unredeemed winning pull tabs, through a level of prize value determined by an organization, that remain in a game. This information may be for each prize value or the total of several prize values. The level of prize value must be posted. If a pull tab has two or more winning prize patterns, the information must be based on the value of each prize pattern. The information must be continually updated.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-12-05. Recordkeeping.

Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. All redeemed and unsold pull tabs for a game and be retained as documentation for gross proceeds and prizes for one year from the end of the quarter in which the activity was reported on a tax return.

2. The deal's game information sheet ~~and~~, flare with the state gaming stamp affixed, and one master flare.

3. A record of game serial numbers for each game.

4. Record of win according to section 99-01.3-03-08.

5. Credit redemption register, including the date, amount, if credits were still on the device, player's name and signature, signature or initials of person who paid the player, bar reimbursement information if applicable, and date paid.

6. If an employee redeems winning pull tabs at a site, a daily employee report documenting the starting and ending cash on hand, IOU records according to section 99-01.3-03-06, and prizes redeemed by prize value, total prizes, credits paid, and cash long or short, and number of redeemed top tier pull tabs by game serial number.

7. Cash profit as defined in subdivision d of subsection ~~7~~8 of section 99-01.3-02-01.

8. Interim period site summary, including meter readings, test vends (if it affects the meter readings), gaming stamp number and game serial number of a deal added to a device, currency withdrawn, redeemed prizes by denomination obtained from a bar, total prizes, including bar and employee redeemed if applicable, total prizes credited through the device if applicable, ~~information on top tier winners redeemed by game serial number, credit redemption register refunds~~total credits paid, employee cash long or short if applicable, cash profit or loss, ~~and~~ bank deposit, and information on top tier winners redeemed by game serial number.

9. A summary that includes the following:

   a. Number of redeemed top tier pull tabs by gaming stamp and game serial number, cumulative cash profit (loss), bank deposits, and prizes;

   b. Reconciliation of nonresettable meters for currency and the number of pull tabs dispensed to the currency in the device and to the value of the pull tabs dispensed; and

c. Ideal gross proceeds, value of unsold pull tabs, gross proceeds, prizes, adjusted gross proceeds, cash profit, and cash long (short). The summaries of all games for a quarter must reconcile to the tax return.

10. Access log, including the date, time, nonresettable currency meter reading, reason for entry, and initials of the employee.

11. Inventory records according to subsection 1 of section 99-01.3-03-09.

12. Interim audit records according to subdivision i of subsection 14 of section 99-01.3-12-02.

13. Ideal cash bank master records according to subsection ~~4~~5 of section 99-01.3-03-09.

14. Verification of the amount deposited according to a bank statement and an audit of the game's activity according to subsections 6 and 7 of section 99-01.3-03-10.

15. The count and reconciliation of deals and cash banks according to subsections 1, ~~4~~5, and ~~6~~7 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-12.1-02. Use and requirements of an organization.

1. An organization may operate a prize board dispensing device when the organization's employee is on duty and may have an authorized bar employee redeem a winning pull tab and pay a cash or merchandise prize when the organization's employee is or is not on duty.

2. If a distributor's or manufacturer's security seal is broken on a deal's container before the deal is used, an organization shall return the deal to the distributor.

3. The following rules must be posted or made available to players. If made available to players, the rules must be in the form of a handout that is easily visible to the players and may not be a copy of the gaming law and rules:

   a. Restricting access to or delaying using credits on a device is prohibited;

   b. A winning pull tab must be redeemed within fifteen minutes;

   c. A pull tab cannot be redeemed if it has been taken from the gaming area;

   d. If a person knowingly solicits, provides, or receives any inside information, by any person, by any means, or knowingly uses a fraudulent scheme or technique to cheat or skim involving pull tabs, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both;

   e. To the best of the organization's knowledge, a prize remaining on a board relates to a winning pull tab that has not been redeemed; and

   f. If a player attempts to falsify or falsifies a record of win, the prize is forfeited.

4. An organization shall maintain custody of all keys to a device. ~~However, an organization may provide an authorized employee of a bar with a key to the cash compartment to withdraw currency or a drop box if:~~

   ~~a. A device's cash compartment is separate from its pull tab and accounting meter compartments. However, if access to a device's accounting meters is controlled by a security code, the cash and accounting meters may be in the same compartment;~~

   ~~b. The organization authorizes a specific employee of a bar to withdraw cash and complies with section 99-01.3-02-02 regarding a criminal history record check on the employee; and~~

   ~~c. If a drop box is not used, an authorized employee of a bar shall count the cash, record the amount, sign and date the record, and secure the cash and record in a keyless locking bank bag. If a drop box is used, an organization may not provide the authorized employee of a bar the key to access the contents of the drop box.~~

5. An organization shall withdraw currency from a device within a seven-calendar-day interim period.

6. An organization shall use the current recordkeeping system unless approval is obtained from the attorney general for use of another system.

7. An organization shall have a rental agreement conforming to section 99-01.3-02-06.

8. An organization shall maintain an access log prescribed by the attorney general. A person who accesses a device for any reason shall record the access and initial the log. When a

person does a test vend which affects the accounting meters or a test validation of currency, the person shall record the value of pull tabs and currency validated. An organization shall retain the log in a device during the quarter of activity.

9. An organization may provide a bar with a temporary loan to enable a bar employee to redeem winning pull tabs and pay prize board cash prizes. The loan and any increase must be made by check payable to the bar and be interest-free. An organization may not access, count, or take custody of the loaned money. The duration of the loan must be until an organization discontinues conducting prize boards at a site through a device. As an option an organization may supply the bar with a cash loan amount equal to the total amount of cash prizes on a prize board. If this option is used, all remaining cash from unredeemed winning pull tabs and the redeemed winning pull tabs must be returned to the organization following final distribution of the seal prize. When the bar repays the loan, the organization shall deposit the funds in its gaming account and the deposit slip must reference the site, source of funds, and amount. The amount reimbursed to a bar must equal the value of redeemed winning pull tabs which the bar provides an organization. An organization employee may not use a bar's cash on hand for redeeming a winning pull tab.

10. An organization may not provide an independent service technician a key to access a device regardless if the device is leased.

11. If a theft of currency occurs, an organization shall record the currency and pull tab accounting meters or print a cash withdrawal report and audit the game. The organization shall provide a copy of all of this information to a local law enforcement agency and the attorney general.

12. When a prize board is closed:

    a. The prize board must be reported on a tax return for the site at which it was closed;

    b. An employee shall buy back all remaining redeemed winning pull tabs from a bar;

    c. If the game has unsold pull tabs, these cannot be put back into play; or

    d. If a coin is not awarded, an organization shall determine the prizes to report on a tax return by prorating the total cost of the coins, according to their face value, of the coins that were awarded to the total face value of all the coins. An organization may use an unawarded prize in another game, sell the prize, or deposit the coin in the gaming account.

13. An organization or employee may not:

    a. Modify the assembly or operational functions of a device;

    b. Use or continue to conduct a deal of pull tabs after being notified by a distributor of a ban or recall of the deal;

    c. Designate a pull tab to entitle a player who buys it with a prize provided by a bar or distributor; or

    d. Intentionally test vend currency or pull tabs to synchronize nonresettable accounting meters.

14. A prize board dispensing device must be conducted and played as follows:

    a. An employee shall place all pull tabs from a deal evenly among the columns used.

b. If used, column sold out indicators must be designated on the last pull tab of each column when the deal is placed into the device. Each column sold out indicator for a deal must be of equal value.

c. An organization may transfer a device from a site to another site or rotate a device among sites. If an organization discontinues gaming at a site, it may close a prize board or transfer the prize board to a device at another site. If a prize board is in the process of being conducted through a device, an organization may not transfer the prize board to a jar bar.

History: Effective July 1, 2010; amended effective April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-12.1-03. Requirements of a bar.

1. A bar shall:

   a. Place a device in a location where alcoholic beverages are dispensed and consumed and where a bar employee will regularly observe the device;

   b. Prohibit a person from tampering or interfering with the operation or play of a device;

   c. Have the electrical current to a device turned off unless alcoholic beverages may be dispensed, a bar employee or an employee is available to redeem a winning pull tab, and a bar has cash on hand to redeem a winning pull tab or cash seal prize;

   d. Absorb a loss related to a ~~counterfeited~~counterfeit or lost pull tab, redeemed pull tab that was not bought at the site, and loss or theft of the temporary loan of fund;

   e. Repay an organization's temporary loan of funds immediately upon request from the organization that discontinues conducting prize boards through a device at a site;

   f. If a malfunction of a device is known by the bar or its employee, turn the device off and promptly notify the organization. Otherwise, the bar or its employee is responsible for any cash shortage; and

   g. Use an organization's loan of money only to redeem a winning pull tab or cash seal prize. If the bar violates this rule, the attorney general may suspend any or all games at the site for up to six months.

2. A bar employee may not access, attempt to access, or permit a person, other than an employee of an organization, to access the interior of a device for any reason~~, except to withdraw currency or a drop box according to subsection 4 of section 99-01.3-12.1-02~~.

3. If a bar employee believes that a deal is defective or there is a problem with a redeemed pull tab, the bar employee shall contact an organization and may turn a device off.

4. A bar may accept or not accept a gaming-related check from a player. A player's check must be payable to a bar. A bar is responsible for a player's check returned by a financial institution as uncollectible. A bar 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. Only a bar employee who is authorized by a bar may redeem a winning pull tab or pay a cash or merchandise prize.

6. A bar employee may not summarize or audit a prize board for an organization.

History: Effective July 1, 2010; amended effective July 1, 2012; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-12.1-05. Recordkeeping.

Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. All redeemed and unsold pull tabs for a game, including column sold out indicators, must be retained as documentation for gross proceeds and prizes for one year from the end of the quarter in which the activity was reported on a tax return.

2. The deal's game information sheet, flare with the state gaming stamp affixed, and supplemental signup sheet if applicable.

3. Purchase invoice or receipt documenting the cost and description of merchandise prizes.

4. Record of win according to section 99-01.3-03-08.

5. Credit redemption register, including the date, amount, if credits were still on the device, player's name and signature, signature or initials of person who paid the player, bar reimbursement information if applicable, and date paid.

6. If an employee redeems winning pull tabs at a site, a daily employee report documenting the starting and ending cash on hand, IOU records according to section 99-01.3-03-06, change in cash bank, total cash prizes, credits paid, and cash long or short.

7. Cash profit as defined in subdivision ~~g~~h of subsection ~~7~~8 of section 99-01.3-02-01.

8. Interim period site summary, including gaming stamp number and game serial number, date placed and date removed, meter readings, test vends, currency withdrawn, total cash prizes redeemed by bar and organization employees, credit redemption register refunds, cash receipts, and bank deposit.

9. A summary that includes the following:

   a. Cumulative cash receipts, bank deposits, and prizes;

   b. Reconciliation of nonresettable meters for currency and the number of pull tabs dispensed to the currency in the device and to the value of the pull tabs dispensed; and

   c. Ideal gross proceeds, value of unsold pull tabs, gross proceeds, total cash prizes, total prizes paid by check, cost of coins, total prizes, adjusted gross proceeds, cash profit, and cash long or short. The summaries of all prize boards for a quarter must reconcile to the tax return.

10. Access log, including the date, time, nonresettable currency meter reading, reason for entry, and initials of the employee.

11. Inventory records according to subsection 1 of section 99-01.3-03-09.

12. Ideal cash bank master records according to subsection ~~4~~5 of section 99-01.3-03-09.

13. Verification of the amount deposited according to a bank statement and an audit of the game's activity according to subsections 6 and 7 of section 99-01.3-03-10.

14. The count and reconciliation of deals and cash banks according to subsections 1, ~~4~~5, and ~~6~~7 of section 99-01.3-03-09.

History: Effective July 1, 2010; amended effective April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

CHAPTER 99-01.3-14

99-01.3-14-01. Restrictions and requirements.

1. An organization may not accept, and a recipient or potential recipient of net proceeds may not give or offer to give, a payment, gift, service, loan, personal or real property, or other thing of material value, for disbursing or receiving net proceeds. However, a recipient or potential recipient of net proceeds that is an organization or group of people may initiate and transact a formal agreement with a donor organization to voluntarily provide a gaming or nongaming related service to the donor organization in exchange for receiving net proceeds; provided, the agreement is first approved by the attorney general or complies with guidelines prescribed by the attorney general. If the attorney general approves the service, the donor organization shall document the service by recording the location, names of volunteers, description of service, number of hours volunteered, and value of the service based on a reasonable hourly rate. The donor organization shall offset the value of these services against the amount of net proceeds disbursed to the recipient during a quarter by reporting the value of these services as an adjustment on a tax return.

2. A disbursement of net proceeds must be specific as to recipient and use. After an organization disburses net proceeds, it may not interfere with a recipient's control of the funds or attempt to own or influence the use or sale of personal or real property bought by or for a recipient of the funds.

3. 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 nor may this person have a financial interest in a funded economic development or tourism program.

4. No private athletic, social, hobby, trade, business, professional, or similar clubs or associations may receive net proceeds, unless the use of the funds complies with subsection 2 of North Dakota Century Code section 53-06.1-11.1 or section 99-01.3-14-02. An expense related directly or indirectly with gaming is not an eligible use.

5. Restrictions on fundraising activities are:

    a. An organization or recipient may not use net proceeds for a fundraising activity that relates directly to the conduct of gaming, including purchase of equipment or consumable goods for a cafe for a site or for direct or indirect expenses and capital costs for a business involving material unrelated business income;

    b. An organization may only use net proceeds for expenses related to fundraising activities if the gross receipts from the fundraising activity are deposited into the trust account and the net income of the fundraising activity is used for a specific recipient or purpose that qualifies as an eligible use of net proceeds;

    c. If an organization conducts a qualifying fundraising event and deposits the event's gross receipts in or pays the expenses from other than its trust account, it may not disburse net proceeds to the recipient unless it transfers the net income from the event to its trust account and makes a proper adjustment on a tax return; and

    d. If a civic and service, fraternal, or veterans' organization uses net proceeds to conduct a fundraising activity and the amount spent on expenses exceed the net income generated by the activity, it shall reimburse the trust account for the difference between the expense amount and the net income amount with nongaming funds and make a proper adjustment on the tax return.

6. The attorney general may require a recipient of net proceeds to document the use of the funds and reimburse a donor organization if the funds were used for an ineligible use.

7. Unless an organization has first received approval from the attorney general, it may not sell a gift certificate or other thing of value to a recipient of its net proceeds.

8. If a check for a disbursement of net proceeds is not cashed by a recipient within six months of the date of the check, an organization shall contact the recipient to cancel or cash the check. If a check is voided, an organization shall make a proper adjustment on a tax return. If a recipient of net proceeds cashes a check related to a disbursement of net proceeds but has not applied the amount toward the intended eligible use within six months of the date of the check, the organization may request the recipient to return the net proceeds.

9. An organization may only disburse net proceeds to a recipient provided the recipient first requests a donation in writing and provides a description of the intended use and amount requested and the request is signed and dated. ~~Also, if the recipient is a charitable organization, professional fundraiser, or professional solicitor, the recipient shall provide the organization with evidence that it has or is exempt from a charitable solicitations license required by North Dakota Century Code chapter 50-22.~~ This rule does not apply to an unsolicited donation of net proceeds or a disbursement of net proceeds by an organization to a program or service that qualifies as an eligible use and which is supported directly by the organization.

10. If an organization conducts or enables a nonprofit corporation, community or school club, or other similar entity to conduct a fundraising event at the organization's facility, the organization may not exchange the gross or net receipts of the fundraising event for net proceeds.

11. An organization may not disburse net proceeds to a recipient on the condition that the recipient hold a meal or banquet at the donor's facility.

12. No disbursement of net proceeds can be used ~~partly~~ for services or fees that do not qualify as an eligible use or for any gaming-related expense. No disbursement of net proceeds to a recipient can be designed to circumvent the allowable expense limits.

13. If an organization is involved in any of the following types of transactions, it shall deposit the net proceeds, income, or receipts directly into its trust account or, if it is exempt from having a trust account, deposit the net proceeds, income, or receipts in its gaming account, and make a proper adjustment on a tax return:

    a. The organization receives net proceeds from another organization and the net proceeds have been designated for a specific eligible use which the recipient has paid for or will pay for with net proceeds, or the net proceeds have not been designated for a specific eligible use;

    b. The gross receipts derived from fundraising activity according to subdivision b of subsection 5 of section 99-01.3-14-01;

    c. The organization loans net proceeds and receives interest or repayment of principal, or both;

    d. A recipient returns net proceeds to or reimburses the organization; or

    e. The organization disburses net proceeds, which qualify as an eligible use, and receives back funds that are directly associated with the disbursements or receives back income that is directly derived from the disbursement of the net proceeds.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-11

99-01.3-14-02. Eligible uses.

1. A use of net proceeds for erecting, acquiring, improving, maintaining, or repairing real or personal qualifying 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 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 portion of net receipts from the sale related to the original net proceeds must be deposited in the trust account and disbursed to an eligible use, or reinvested in property used for a similar purpose.

2. In applying subdivision a of subsection 2 of North Dakota Century Code section 53-06.1-11.1, net proceeds must be disbursed to or by a recognized nonprofit city or county job development authority or certified or noncertified local development corporation.

3. In applying subdivision b of subsection 2 of North Dakota Century Code section 53-06.1-11.1, net proceeds must be used to attract in-state and out-of-state visitors by publicizing attractions, promoting, planning, conducting, and sponsoring market research, trade shows, meetings, conventions, seminars, sporting events, and festivals, and by developing and promoting the state's attractions, recreational opportunities, shopping malls, and other tourism-related activities. Uses may not directly benefit a for-profit business.

4. In applying subdivision c of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include:

   a. A scholarship for a student. A scholarship may be based on criteria, including community service, patriotism, leadership, education, talent, athletic ability, course of study, or special disability. No scholarship award may be decided by a donor organization, unless the organization administers an education program for special students or students inflicted with disease. Net proceeds may be disbursed to a scholarship board or to an educational institution. 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 to an educational institution or scholarship board. A student receiving a scholarship may apply it at a nonprofit public, or for-profit or nonprofit private, educational institution, including a trade or business school, registered with or accredited by any state board. A scholarship may be for housing, books, tuition, and meals that relate to a student's educational need. A scholarship may be awarded through a pageant, contest, or tournament; however, associated administrative and operating expenses do not qualify. No scholarship may be based on criteria that includes a person's physical appearance;

   b. Supplemental assistance to a primary, secondary, or postsecondary nonprofit educational institution, 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 to 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 to a nonprofit performing arts and humanities organization 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, including restoring, reconstructing, improving, or preserving 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 for programs of nonprofit organizations that provide historical information or tell a story about a local region, North Dakota, or the nation and which primarily educate and inspire the public, elderly, disabled, 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 open to all youth, less than eighteen years of age. An organization shall disburse, to the extent possible, equal amounts to activities for each gender. Net proceeds may be used for uniforms, equipment, tournament fees, private and public ground transportation, coaches' salaries and mileage, judges, field trips, speaker fees, father-son and mother-daughter banquets provided that the meals for these banquets are provided free, meals, and lodging. Meals and mileage may not exceed the state per diem rate and lodging expenses must be documented with a receipt;

g. Adult amateur athletic activities within North Dakota. Net proceeds may be used for sponsorship and league fees for entire teams, uniforms, umpire fees, construction, use and maintenance of a sports complex, and team equipment. Uniforms and equipment must be owned by the team or league association. Tournament fees, individual player fees, food and drink, lodging, trophies, prizes, yearbook, advertising, and private or public transportation expenses do not qualify, except transportation expenses for a disabled player. ~~A race car,~~Unless specifically allowed in this section, net proceeds may not be used for adult hobby and recreational activities that personally benefit adult individuals. Rodeos, car, or horse racing, car or gun shows, shooting events, fishing derbies, tractor or pickup pulls, and similar ~~activity~~activities do not qualify;

h. Maintenance of religious buildings, remodeling, fixed assets, administrative and operating expenses, gospel outreach programs, youth church activities, uniforms for a choir, furnishings, and supplies for church groups and services; and

i. Scientific research for a cure to relieve human beings of disease and suffering.

5. In applying subdivision d of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include:

a. Food, temporary housing, clothing, utilities, medical services, and fuel for private and public transportation for an individual or family suffering from poverty or homelessness, or financial distress due to a natural disaster or medical problem;

b. Purchase and maintenance of a ground transportation vehicle for the elderly;

c. Services for abused persons, including to:

(1) Provide emotional support, guidance, and counseling to victims of crimes of rape and sexual assault and encourage prosecution of perpetrators;

(2) Establish educational programs about rape, sexual assault and incest, the dramatic effects it has on victims and their families, and the cost to society;

(3) 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; and

(4) Develop and coordinate programs to encourage and assist development of a strong volunteer advocate network;

d. Support for youth centers and halfway houses;

e. Recognize an individual or group of people who volunteer their time to community services, nursing homes, or hospitals if a gift, prize, or other gratuity does not exceed one hundred dollars per person per calendar year;

f. Net proceeds may be used for public or private nonprofit nursing homes, day care centers, and medical facilities for maintaining buildings, remodeling, fixed assets, administrative and operating services, supplies, reading programs, and craft activities for patients;

g. Complying with the Americans with Disabilities Act of 1990 by remodeling a publicly owned facility; and

h. To remodel or improve a ~~fraternal or~~ veterans' organization's owned facility ~~or a nonprofit community facility~~ to make it accessible or usable to youth, senior citizens, people with disabilities, and nonmembers of the organization, for community programs, services, or functions. The community shall use a building for free or a reasonable fee. To make a building accessible, net proceeds may be used to widen doorways and hallways, remodel bathroom fixtures and facilities, install chair lifts, wheelchair ramps, elevators, handrails, and automatic door openers. To make a building usable, net proceeds may be used to repair a building to meet a building code or make it structurally fit for use, to enlarge a facility, replace a furnace, water heater, and air-conditioner, and to make it safe. ~~The cost must be prorated to the benefit the community receives in relation to the total usage of the facility as determined by the attorney general.~~Net proceeds may not be used to remodel or improve an area of a facility where alcoholic beverages are prepared.

6. In applying subdivision e of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include burial expenses and flowers provided an organization does not discriminate between members and nonmembers.

7. In applying subdivision f of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include promotion and celebration of civil rights, nondiscrimination, patriotism, and freedom. ~~State~~Net proceeds may not be used for social or recreational activities or for events, activities, programs, or expenses that are of a direct benefit to the organization and are primarily beneficial to organization members and their families. This includes state and national convention expenses; recognition nights that may include a banquet, program, and dance for past commanders or past members; and ceremonial and ritual activities~~; and purchase of a transportation vehicle do not qualify~~.

8. In applying subdivision g of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include maintaining parks and perpetual trust funds for public cemeteries.

9. In applying subdivision j of subsection 2 of North Dakota Century Code section 53-06.1-11.1, net proceeds may be used for subsistence for a family member traveling with an ill family member to an out-of-town medical facility.

10. In applying subdivision l of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include:

    a. Adult and city bands~~,~~; choirs~~,~~; drum and bugle corps~~,~~; color and honor guards~~,~~; parade floats~~,~~; director fees~~,~~; rent of storage~~,~~; postage~~,~~; insurance~~,~~; laundry~~,~~; utilities~~,~~; uniforms~~,~~; gun safe~~,~~; firearm~~,~~; sheet music~~,~~; audio system~~,~~ and instruments~~, owned by a band, choir, or organization; transportation vehicle, owned by the organization;~~ in-state lodging, and private and public ground transportation for performances at community concerts, homecomings, open houses, parades, festivals, funerals, nursing homes, hospitals, and special events. For only a color or honor guard, net proceeds may be used to pay a member a maximum per diem not to exceed the daily funeral service rate paid to members of the armed forces ready reserve~~. An audio system and instruments must be owned by a band, choir, or organization. A vehicle must be owned by an organization~~;

    b. Community celebrations that recognize or honor the military service of individuals in the armed services;

    c. Educational agricultural trade shows and conventions held in North Dakota. Meals and entertainment do not qualify;

    d. Nonprofit organizations that protect animals. Uses include:

        (1) Hatcheries and wildlife preserves, wetlands, and sanctuaries;

        (2) Teaching and promoting ecology, game and wildlife management, and outdoor interests involving animals, fish, and birds; and

        (3) Spay and neuter programs, pet placement, lost and found pet services, educational programs, investigations of animal abuse, and information services;

    e. Preserving and cleaning up the environment, including air quality, water quality, waste and recycling programs, and conservation of natural resources; and

    f. Outreach public medical care.

11. In applying subdivision m of subsection 2 of North Dakota Century Code section 53-06.1-11.1, a special trust fund:

    a. Must be managed and controlled by trustees, who may be board members, appointed by an organization. However, if an organization dissolves, it must establish a nonprofit corporation limited to the primary purpose stated in its declaration of trust. A trust may be revocable or irrevocable; and

    b. Must be comprised only of net proceeds which can be disbursed to the trust periodically or in a lump sum. Net proceeds must be invested only in marketable securities. A trust's principal, interest, dividends, and gains on sales of investments must be applied toward the trust's primary purpose. No trust's principal can be disbursed until a donor organization has permanently discontinued conducting games or dissolved.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01, 53-06.1-01.1

CHAPTER 99-01.3-15

99-01.3-15-02. Restrictions and requirements.

1. A licensed organization, organization that has a permit, or licensed manufacturer may not be a distributor. A person who is an officer, manager, gaming manager, or member of a governing board of a licensed organization or organization that has a permit may not be an officer, director, shareholder, proprietor, independent contractor, consultant, or employee of a distributor, nor have a financial interest in that distributor. A person having a financial interest in a distributor may not be a lessor of a site to an organization that is an active customer of that distributor. A change in ownership of a distributor must be immediately reported to the attorney general.

2. A distributor shall have an office in North Dakota where records must be kept.

3. An officer, director, shareholder, agent, or employee of a distributor may not:

   a. Play a game of pull tabs, including electronic pull tabs, club special, tip board, prize board, seal board, sports-pool board, punchboard, electronic quick shot bingo at any site~~, or play in a poker tournament in which the distributor provided the poker chips or consulting services~~;

   b. Conduct games of prize boards, pull tab and prize board dispensing devices, electronic pull tabs, club specials, seal boards, raffle boards, tip boards, sports-pool boards, or punchboards at an organization's site;

   c. Interfere with or attempt to influence a lessor's relationship with an organization involving a lease agreement, interfere with or attempt to influence an organization's management, employment practices, policy, gaming operation, disbursement of net proceeds, or procure a site for an organization. A distributor may notify an organization of an available site; or

   d. Provide bookkeeping services, including summarizing or auditing games to an organization.

4. A distributor may not have an expressed or implied agreement with another distributor to restrict the sales of either of them to a specific geographic area or organization.

5. A distributor may not sell or provide a drop box unless it is a double-locking removable metal container and has:

   a. One lock that secures a 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 locks must be different; and

   b. A slot opening through which currency and forms can be inserted into a drop box. The slot of a drop box may not exceed three and one-half inches in length and one-half inch in width. Inside a drop box there must be a spring-loaded mechanism that automatically closes and locks the slot opening when the drop box is removed from a table.

6. For a twenty-one table, a distributor may only sell or provide a playing surface that meets the requirements of subsection 1 of section 99-01.3-08-02 and subsection 3 of section 99-01.3-08-04.

7. A distributor may not sell or provide twenty-one and paddlewheel (betting and casino) chips to an organization if those chips are identical in physical characteristic to chips previously sold or provided by that distributor to a different organization.

8. A distributor may not give a gift, trip, prize, or other gratuity valued singly or in the aggregate in excess of one hundred dollars per employee per calendar year related to a licensed organization or organization that has a permit. A distributor may not loan money (excluding credit) to a licensed organization or organization that has a permit, or to an employee of such an organization.

9. An employee shall read and acknowledge in writing, within thirty days of employment and the effective date of new gaming laws or 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 distributor shall designate the provisions to be read. The acknowledgment must be dated, reference the provisions, and be part of the person's personnel file.

10. If information on a license application becomes inaccurate or outdated in any material way, including changes to the employee listing, the distributor shall provide the attorney general, in writing, items of change within fourteen days following the change.

11. A distributor may not share an office or warehouse facility with an organization.

~~11.~~12. A distributor shall file a copy of each sales invoice and record of voided gaming stamps with the attorney general by the fifth business day following the month of the transaction.

~~12.~~13. A distributor may not buy or be provided gaming equipment from an affiliated company unless the company is a wholly owned subsidiary of the distributor. An affiliated company shall have originally bought the equipment directly from a licensed manufacturer.

~~13.~~14. A distributor may not buy or be provided gaming equipment from an out-of-state distributor unless the out-of-state distributor has the manufacturer ship the equipment directly to the licensed distributor and the manufacturer is licensed.

~~14.~~15. A distributor may not knowingly possess, display, sell, or provide an organization a deal of pull tabs, club special, tip board, prize board, or punchboard that:

a. Does not conform to the quality standards of sections 99-01.3-16-04 and 99-01.3-16-05;

b. Has a manufacturer's or distributor's seal broken on the manufacturer's container or has been prohibited by the attorney general from sale or play within North Dakota; or

c. Contains pull tabs or punches that have winner protection features although they are not winning pull tabs or punches.

~~15.~~16. A distributor may not temporarily store any game that has a state gaming stamp affixed to its flare which has been sold. A sale occurs when a distributor issues a sales invoice. If a distributor sells or provides gaming equipment to another distributor, the distributor shall ship the equipment directly to the other distributor's address.

~~16.~~17. A distributor shall direct a manufacturer to ship gaming equipment directly to the distributor and the distributor shall have it unloaded at its warehouse. However, if a distributor buys equipment from a manufacturer for sale to another distributor or buys a flashboard, blower, jar bar, paddlewheel, or twenty-one, poker, or paddlewheel table for sale to an organization, the distributor may direct the manufacturer to ship the equipment directly to the other distributor or organization, including the organization's site.

~~17.~~18. A distributor may not separate a paper bingo card when there are two or more faces on a sheet.

~~18.~~19. A distributor may not:

a. Sell or provide a dispensing device, fifty-fifty raffle system, site system with bingo card-marking devices, electronic quick shot bingo site operating system with card-marking devices, electronic pull tab device with operating system, and related equipment to an organization unless a model of the device or system has first been approved by the attorney general;

b. Modify an approved dispensing device model, electronic currency validator, fifty-fifty raffle system, site system with bingo card-marking devices, ~~or an~~ electronic quick shot bingo site operating system with card-marking devices, or an electronic pull tab device with operating system unless authorized by the attorney general; or

c. Rent a dispensing device to an organization unless the rent is for a fixed dollar rate per month or other duration. For a site system with bingo card-marking devices, a distributor may rent a site system with devices to an organization for a fixed dollar rate per month or other duration, or for a percentage or fixed dollar amount of rental income derived from players who use the devices. For an electronic quick shot bingo site operating system with card-marking devices, a distributor may rent a site operating system with devices to an organization for a fixed dollar rate per month or other duration, or a fixed rate per bingo card sold. For a fifty-fifty raffle system, a distributor may rent a system to an organization for a fixed dollar rate per month or other duration, or a fixed rate per ticket sold. For electronic pull tab devices with operating system, a distributor may rent devices with operating system to an organization for a fixed dollar rate per month or other duration, or a fixed rate per electronic pull tab ticket sold. Rent may not be based on gross proceeds ~~or~~, adjusted gross proceeds, or net ~~revenue~~income earned from bingo ~~or a raffle~~, raffles, or pull tabs. If a distributor rents a site system with bingo card-marking devices, or electronic quick shot bingo site operating system with card-marking devices, ~~or~~ fifty-fifty raffle system, or electronic pull tab devices with operating system to an organization, the distributor may have a manufacturer, on behalf of the distributor, issue an invoice to an organization; however, the organization shall remit all rent payments directly to the distributor.

~~19~~20. A distributor may arrange for an organization to acquire a dispensing device through a financing lease purchase agreement with a finance or lease company. Although an organization is deemed to own a device, a finance or lease company may have a security interest or ownership right in the device until the organization satisfies the lease.

~~20.~~21. If a distributor is an agent for another distributor in marketing a dispensing device, the agent is not required to complete a sales invoice. A distributor is an agent if it receives a commission and does not finance or take temporary possession or title to the device.

~~21.~~22. A distributor that sells or provides a new or used dispensing device to an organization or distributor, other than as an agent, or merely transacts a transfer of a device, for or without a fee, between two organizations, shall do the following unless that distributor contracts with another distributor to comply with this rule on its behalf:

a. Maintain an adequate inventory of electronic and mechanical parts in North Dakota, provide maintenance service, and provide technical assistance and training in the service and repair of a device;

b. Make available, upon request, electrical and mechanical parts to all other licensed distributors at the usual price for such parts; and

c. Notify the attorney general of any recurring electronic or mechanical malfunction of a device model.

~~22.~~23. A distributor that resells, transacts a transfer, rents, or provides a used dispensing device to an organization shall change or arrange to have changed all the keyed locks on the device.

~~23. A distributor that sells or provides a dispensing device to an organization shall record this information on a sales invoice:~~

~~a. Name, address, and license number of an organization and name and location, if known, of the site where the device will be placed; and~~

~~b. Name of device and its serial number.~~

24. A distributor shall initially set up a dispensing device, fifty-fifty raffle system, site system with bingo card-marking devices, electronic quick shot bingo site operating system with card-marking devices, electronic pull tab devices with operating system, and related equipment at a site and conduct and document one training session on the operation and service of each for an employee of an organization that acquires a device or system for the first time. A distributor shall provide an operations manual to an organization operating a dispensing device, electronic pull tab devices with operating system, fifty-fifty raffle system, site system with bingo card-marking devices, electronic quick shot bingo site operating system with card-marking devices, and related equipment.

25. A service technician may not access a dispensing device or electronic pull tab device unless accompanied by an organization employee.

26. A distributor may not possess, in inventory, a processing chip encoded with proprietary software that was duplicated by the distributor for a dispensing device or electronic pull tab device usable in North Dakota.

27. A distributor may not sell or provide new video surveillance equipment or install video surveillance equipment for an organization unless the distributor is an approved vendor of the equipment or is approved by the attorney general.

28. If a distributor receives an administrative or criminal complaint or a citation from another state, it shall notify the attorney general in writing within thirty days of the date of the complaint or citation.

29. An electronic quick shot bingo site operating system with card-marking devices, fifty-fifty raffle system, site system with bingo card-marking devices, electronic pull tab devices with operating system, and related equipment may only be sold or provided to an organization with a state gaming license.

30. A distributor shall report a malfunction of a fifty-fifty raffle system, site system with bingo card-marking devices, ~~or~~ electronic quick shot bingo site operating system with card-marking devices, or electronic pull tab devices with operating system, which affects the security or integrity of the system or the outcome of a game to the attorney general within the next business day of the date of occurrence.

31. At least seven calendar days before installing, upgrading, or converting an electronic pull tab device and operating system at a gaming site, the distributor shall report the following information to the attorney general in writing:

a. Manufacturer;

b. Serial numbers of the gaming equipment;

c. Source from whom the gaming equipment was acquired, how the gaming equipment was transported into the state, and name and address of the common carrier or person that transported the gaming equipment;

d. Gaming site where the gaming equipment will be placed;

e. Identification number of software components;

f. Certification; and

g. Date of install.

32. At least seven calendar days before removal of an electronic pull tab device and operating system from a gaming site, the distributor shall report the following information to the attorney general in writing:

a. Manufacturer;

b. Serial numbers of the gaming equipment;

c. Date on which it was removed;

d. Destination of the gaming equipment; and

e. Name of the person to whom the gaming equipment is to be transferred to, including the person's street address, business and home telephone numbers, how the gaming equipment is to be transported, and name and address of the common carrier or person transporting the gaming equipment.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-14

99-01.3-15-06. Distribution of gaming equipment.

1. A manufacturer's game serial number must be on a paddlewheel ticket described by subsection 1 of section 99-01.3-11-01, all pull tabs, including pull tabs used with prize boards, club specials, and tip boards and punches in a punchboard. No game serial number may be special ordered. A game serial number must be preprinted on a paddlewheel ticket card. If a game serial number is not preprinted on a seal board, raffle board, prize board, sports-pool board, or calcutta board, a distributor shall assign and electronically or mechanically imprint it on the board. No serial number may be repeated within three years.

2. For a deal of pull tabs and jar ticket game, a distributor may open a manufacturer's cellophane shrink wrap to access a flare. A distributor shall affix a state gaming stamp on the front of the original flare, or a legible copy of the flare, of a deal of pull tabs, club special, tip board, series of paddlewheel ticket cards, and on a punchboard, sports-pool board, seal board, raffle board, prize board, and calcutta board that is sold or provided to a customer. A gaming stamp must be affixed in North Dakota. A distributor shall legibly write a manufacturer's game serial number in ink on the stamp. If the written number is incorrect, the number cannot be changed or erased and the stamp must be voided. For a series of paddlewheel ticket cards, the game serial number written must be the lowest numbered paddlewheel ticket card. Then, a distributor shall replace, if applicable, a flare inside the cellophane shrink wrap and seal the opening. This rule does not apply to gaming equipment provided directly to an Indian tribe, United States military, out-of-state purchaser, or another licensed distributor.

3. If a manufacturer's security seal on a container is inadvertently broken but the integrity of a deal remains intact, a distributor may reseal the deal with an adhesive security seal identifying the distributor. The seal must be applied to all accessible sides of a container and ensure that a deal is secure. A distributor shall indicate on a sales invoice that the deal was resealed by the distributor and the reason.

4. For electronic pull tab deals, a distributor electronically shall assign a state-issued electronic gaming stamp number to each electronic pull tab deal issued to a licensed organization. This placement must occur prior to the deal being downloaded to the organization's site server. The organization and attorney general must be notified of the assigned electronic gaming stamp number, game serial number, game name, site received at, and date and time the deal was received at the site at least monthly or on demand. Electronic gaming stamps must be issued in consecutive order.

5. A distributor shall provide a flare with a deal of pull tabs or jar tickets and series of paddlewheel ticket cards. The master flare for a game involving deals of jar tickets that contain winning tickets of the same prize value printed in differently colored numbers or symbols must have the flare's numbers and symbols printed in matching colors. A flare, including a master flare, must indicate the name of the game, manufacturer's form number, cost per play, and value and number of winning prizes. The front of a flare for a deal of jar tickets must indicate the number of jar tickets in the deal. The number of prizes may be designated by a number or by a quantity of symbols that represent the number of winning prizes and winning number or symbol. A symbol must be pictured on a flare, not described. A flare, including a master flare, may not display combinations of winning pull tabs, unless the phrase "prizes above are combinations of single prizes listed below" or a similar phrase is used and additional statements such as "may contain multiple winners", may be used in conjunction with this phrase. A last sale prize must be printed on a flare or be indicated by a permanently affixed sticker. The flare or sticker must contain the last sale feature, prize value, and distributor's name or license number. A distributor may not alter a flare except to add a last sale feature to a manufacturer's flare for a deal of pull tabs. A distributor may make a flare for a deal of jar tickets. This information must be mechanically or electronically printed on a flare.

~~5.~~6. A distributor may not sell or provide a multiple line or multiple square sports-pool board to a customer unless a special opaque tape covers the numbers on the board. If a tape is disturbed, any recovering of the numbers must be detectable. A tape must prevent the concealed numbers from being viewed from the outside when using a high-intensity lamp.

~~6.~~7. For a deal of jar tickets, club special, tip board, and prize board, a distributor shall provide a game information sheet containing gaming stamp number, cost per play, ideal gross proceeds, ideal prizes, including any last sale prize, if known, ideal adjusted gross proceeds, and the quantity, face value, and total face value of coins on a prize board or, in place of a separate sheet, the information may be printed on the front or back of the deal's flare.

~~7.~~8. A distributor shall print these phrases on a sports-pool board:

a. Professional sports pool;

b. Cost per play $_____(maximum cost per play is $25.00);

c. Date of sports event _____;

d. Ideal prizes $_____; and

e. Method of prize payout _____.

~~8.~~9. A distributor shall include this information on the flare of a series of paddlewheel ticket cards:

a. Game serial numbers of the lowest and highest numbered paddlewheel ticket cards;

b. Quantity of cards;

c. Type of paddlewheel ticket (for example, 40 x3x 120), if applicable; and

d. The printed phrase "cost per ticket $_____".

~~9.~~10. A distributor shall print the phrases "merchandise prize _____" and "retail price $_____" on a flare and for each seal for a game that has a merchandise prize.

~~10.~~11. A distributor shall sell a calcutta board on which is printed a matrix of horizontal lines and vertical columns sufficient to accommodate the information required by subsections 7, 10, and 12 of section 99-01.3-10-01. A distributor shall print "calcutta" at the top of a board and print the phrases "sporting event _____", "method of prize payout _____", and "date of sports event _____" on the board.

~~11.~~12. A distributor shall print the phrases "cost per play $_____", "merchandise prize _____" (if applicable), and "retail price $_____" on a seal board.

~~12.~~13. A distributor shall print the phrases "cost per square $_____", "date of raffle_____", and "prize_____" on a raffle board.

~~13.~~14. A distributor shall print "cost per play $_____", and for each merchandise seal prize the phrases "merchandise prize _____" and "retail price $_____" on a prize board.

~~14.~~15. If a distributor is notified by an organization that the game serial number of a deal of pull tabs, club special, tip board, seal board, raffle board, punchboard, series of paddlewheel ticket cards, calcutta board, prize board, or sports-pool board is different from the number written on a state gaming stamp, the distributor shall follow procedures prescribed by the attorney general.

~~15.~~16. If a distributor is notified by a manufacturer or attorney general of a ban or recall of defective pull tabs or punchboards, the distributor shall comply with subsection 2 of section 99-01.3-16-07.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1.-01.1, 53-06.1-14

99-01.3-15-09. State gaming stamp and return of gaming equipment.

1. A distributor shall maintain gaming stamps at its North Dakota office. A distributor may not provide a stamp to another distributor. If a distributor voids or does not use a stamp, it shall return the stamp to, or for electronic gaming stamps, notify the attorney general. There is no credit for a voided or unused stamp. If a distributor discontinues business, it shall return all voided and unused stamps to the attorney general within fourteen days after discontinuance of business.

2. If an organization returns an unplayed deal, game, or series containing a state gaming stamp, a distributor shall void the stamp and complete a form prescribed by the attorney general. A distributor may not take back an unplayed deal or game containing a stamp from an organization unless the distributor originally sold it or is authorized by the attorney general. If a distributor resells or reissues a deal, game, or series, the distributor shall affix a new stamp on the flare.

3. Distributors shall maintain records accounting for all state gaming stamps. A distributor shall complete an annual reconciliation of state gaming stamps. Any unaccounted for state gaming stamps must be reported to the attorney general.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-14

99-01.3-15-10. Recordkeeping.

A distributor shall maintain complete, accurate, and legible accounting records in North Dakota. The records must be retained for three years and include, by month:

1. Purchase invoices for gaming equipment.

2. Sales of gaming and nongaming equipment, supplies, and services sold or provided on a distributor's invoice. A sales invoice must be prepared on a form approved by the attorney general and include:

   a. License number of the distributor;

   b. Business name and address of the buyer and business name and address where the gaming equipment or supplies were shipped to or where the service was performed;

   c. License or permit number of the buyer, if applicable;

   d. Invoice number and date;

   e. Date shipped or date of service;

   f. Indication for a credit memo;

   g. Quantity, price, and description of each item of gaming equipment, supplies, and services. This includes the name of game and indication of the item as a deal of pull tabs, electronic deal of pull tabs, club special, prize board, tip board, seal board, raffle board, punchboard, sports-pool board, calcutta board, or series of paddlewheel ticket cards. For a deal of pull tabs (excluding jar tickets), it must include a manufacturer's form number. For a series of paddlewheel ticket cards, it must include the number of paddlewheel ticket cards and number of tickets on each card. For a prize board, it must include separate costs, including sales tax, for a merchandise prize (if any), coins, and board and pull tabs. For paper bingo cards, it must include the primary color of single cards or primary color of the top card of collated booklets, type (number of faces on a sheet) of collated booklets or single cards, number of cards in a collated booklet, and serial number and size of series. For dispensing devices, it must include name of the device and its model and serial number. For a site system with bingo card-marking devices and electronic quick shot bingo site operating system with card-marking devices, it must include the quantity of devices and name, model and serial number, and version of the system and devices. For a fifty-fifty raffle system, it must include name of the system and its model and serial number. For electronic pull tab devices with operating system, it must include the quantity, name, model, and serial numbers of the devices and version of the operating system. For service work performed, it must include the nature of the work and identify the system or device the work was performed on;

   h. Gaming stamp number;

   i. Ideal gross proceeds, ideal adjusted gross proceeds, price of a merchandise prize, and value of a last sale prize; and

j. An indication that a deal was resealed and the reason, if applicable.

3. A sales invoice must be:

   a. Prenumbered consecutively with a preprinted number of at least four characters;

   b. Prepared in three parts and issued as follows:

      (1) One part to the customer;

      (2) One part retained in an invoice file by customer name; and

      (3) One part to the attorney general. Every invoice, including voids, must be numerically accounted for; and

   c. A credit memo for a returned item must be prepared and issued like a sales invoice. A credit memo must represent only a returned item.

4. A sales journal must include the invoice date, number, total amount, and name of customer.

5. A cash receipts journal must include cash sales, cash received from all sources, name of customer, date a payment is received, and amount.

6. A cash payments journal must include checks issued, cash payments, date of check or payment, check number, name of payee, and type of expense.

7. Record of voided gaming stamps on a form prescribed by the attorney general.

8. Inventory records and reconciliation of inventories.

9. A repair report for each service call on a dispensing device.

10. Documentation of a training session conducted according to subsection ~~23~~24 of section 99-01.3-15-02.

11. A manufacturer's invoice that references a rental fee charged an organization for a site system with bingo card-marking devices, an electronic quick shot bingo site operating system with card-marking devices, ~~and a~~ fifty-fifty raffle system, and electronic pull tab devices with operating system.

12. A monthly report detailing, for each different variation of electronic pull tab game, the total number of times a deal for the game was downloaded to an organization site server for play. The report must include for each deal, manufacturer, game name, state gaming stamp number, game serial number, number of pull tabs, cost per play, ideal gross proceeds, ideal prizes, and pay out percentage.

13. Perpetual inventory records of bingo card-marking devices used with site systems and of card-marking devices used with electronic quick shot bingo site operating systems, which must include the organization name, site, model of device, serial number of device, and dates issued to and returned from a site.

~~13.~~14. Perpetual inventory records of fifty-fifty raffle systems which must include the organization name, site, control programs installed, and number of sales units.

15. Perpetual inventory records of electronic pull tab devices with operating systems, which must include the organization name, site, control programs installed, and number of electronic pull tab devices at the site. For each electronic pull tab device, the inventory records must include

manufacturer, unique serial number, model number, and date of manufacture. This information must be retained for three years.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-16
MANUFACTURERS

Section
99-01.3-16-01 License
99-01.3-16-02 Background Investigation and Notification of Complaint in Another State
99-01.3-16-03 Restrictions and Requirements
99-01.3-16-04 Quality Standards for Pull Tabs
99-01.3-16-05 Quality Standards for Punchboards
99-01.3-16-06 Quality Standards for Bingo Cards Used in a Dispensing Device [Repealed]
99-01.3-16-07 Ban or Recall of Defective Pull Tabs or Punchboards
99-01.3-16-08 Manufacturing Specifications - Dispensing Device
99-01.3-16-09 Standards for a Currency Validator - Dispensing Device
99-01.3-16-09.1 Manufacturing Specifications - Site Operating Systems with Bingo Card-Marking Devices
99-01.3-16-09.2 Manufacturing Specifications - Bar Code Credit Device
99-01.3-16-09.3 Manufacturing Specifications - Card Shuffling Devices
99-01.3-16-09.4 Manufacturing Specifications - Electronic Quick Shot Bingo Site Operating Systems with Card-Marking Devices
99-01.3-16-09.5 Manufacturing Specifications - Fifty-Fifty Raffle Systems
99-01.3-16-09.6 Manufacturing Specifications - Electronic Pull Tab Device With Operating System
99-01.3-16-10 Testing, Approval, and Recall
99-01.3-16-11 Sales Invoice

99-01.3-16-01. License.

1. A manufacturer of deals of pull tabs, electronic deals of pull tabs, paper bingo cards, site systems with bingo card-marking devices, electronic quick shot bingo site operating systems with card-marking devices, pull tab dispensing devices, ~~or~~ fifty-fifty raffle systems, electronic pull tab devices with operating systems, or any other person may not sell, lease, solicit business, or provide these items to a distributor without a license. If two or more manufacturers are affiliated, each manufacturer shall apply for a license. A license is not transferable. The annual licensing period is April first through March thirty-first. An application must include information prescribed by the attorney general. The license fee for a manufacturer of pull tabs, electronic pull tabs, bingo cards, site systems with bingo card-marking devices, ~~or~~ electronic quick shot bingo site operating systems with card-marking devices, or electronic pull tab devices with operating systems, is four thousand dollars. The license fee for a manufacturer of only pull tab dispensing devices is one thousand dollars. The license fee for a manufacturer of a fifty-fifty raffle system is five hundred 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 is required.

2. In addition to the annual license fee of four thousand dollars, manufacturers of electronic pull tab devices with operating systems are required to procure, at its own cost, and submit to the attorney general, a bond payable to the state of North Dakota in the amount of two million dollars for the term of their manufacturer's license plus seven subsequent years thereafter, conditioned on their faithful performance as a licensee and their subsequent support of existing electronic pull tab devices in the state at the expiration or termination of their manufacturer's license. If the manufacturer fails to faithfully perform their duties as a licensed manufacturer or support existing electronic pull tab devices in the state at the expiration or termination of their manufacturer's license, the bond may be forfeited to the state of North Dakota.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; July 1, 2010; April 1, 2016; July 1, 2018.

General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1, 53-06.1-14

99-01.3-16-03. Restrictions and requirements.

1. A manufacturer that sells, or provides, paper bingo cards to a distributor shall print its name or distinctive logo and the assigned serial number and series number (card number) on each card. A manufacturer shall have available for sale or provide to a distributor a master checkbook covering all card serial numbers. A manufacturer may not ship paper bingo cards directly to a licensed organization or organization that has a permit.

2. A manufacturer may only sell or provide gaming equipment to a licensed distributor. A manufacturer shall maintain accounting records of all sales of gaming equipment and retain them for three years. The records may be in electronic form.

3. A manufacturer may not give a gift, trip, prize, or other gratuity valued singly or in the aggregate in excess of one hundred dollars per employee per calendar year related to a licensed distributor or organization.

4. A manufacturer may not modify the assembly or operational functions of an approved pull tab dispensing device model unless requested by the attorney general or a written request is approved by the attorney general. The attorney general may apply section 99-01.3-16-10 for approving a modification to a device model.

~~4.~~5. A manufacturer may not modify ~~paytables~~pay table, bonus features, games, or current methods of operation of an approved site system with bingo card-marking devices, and electronic quick shot bingo site operating system with card-marking devices and related equipment unless requested or authorized by the attorney general. The attorney general may apply section 99-01.3-16-10 for approving a modification to a device.

~~5.~~6. A manufacturer may not modify the software, pay table, extended play features, games, or current methods of operation of an approved electronic pull tab device with operating system and related equipment unless requested or authorized by the attorney general. The attorney general may apply section 99-01.3-16-10 for approving a modification to a device or operating system.

7. A manufacturer may not modify operating software or methods of operation of an approved fifty-fifty raffle system and related equipment unless requested or authorized by the attorney general. The attorney general may apply section 99-01.3-16-10 for approving a modification to a system.

~~6.~~8. A manufacturer may service a fifty-fifty raffle system, site system with bingo card-marking devices or electronic quick shot bingo site operating system with card marking devices and related equipment used by an organization.

~~7.~~9. A manufacturer of a dispensing device, fifty-fifty raffle system, site system with bingo card-marking devices, or electronic quick shot bingo site operating system with card-marking devices and related equipment shall provide an operations manual to a distributor.

~~8.~~10. A manufacturer shall report a malfunction of a fifty-fifty raffle system, site system with bingo card-marking devices, ~~or~~ electronic quick shot bingo site operating system with card-marking devices, or electronic pull tab device with operating system which affects the security or integrity of the system or the outcome of a game to the attorney general by the next business day of the date of occurrence.

~~9.~~11. A manufacturer shall provide on the front of a master flare for a deal of jar tickets or pull tabs and on the flare display of an electronic pull tab device, that contain:

a. Name of game;

b. Manufacturer's form number;

c. Cost per play;

d. Value and number of winning prizes;

e. Number of pull tabs or jar tickets; and

f. The phrase, "prizes above are combinations of single prizes below" or a similar phrase when combinations of winning pull tabs are displayed on the flare.

The number of prizes may be designated by a number or by a quantity of symbols that represent the number of winning prizes and the winning number or symbol. A symbol must be pictured on a flare, not described. A master flare for a game involving deals of jar tickets that contain winning tickets of the same prize value printed in differently colored numbers or symbols must have the flare's number and symbols printed in matching colors.

If an extended play feature is used for electronic pull tabs, a notification must be provided to the player explaining that an extended play feature is used on the game and that "Extended play features prolong the play of an electronic pull tab ticket but do not award a prize in addition to the predetermined prize for that ticket."

12. A manufacturer, its agents and employees, members of a manufacturer's immediate family, or persons residing in a manufacturer's household may not make any loan directly or indirectly to any organization or officer, director, game manager, or entity involved in the management, operation, or conduct of charitable gaming in the state of North Dakota.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-04. Quality standards for pull tabs.

A manufacturer shall manufacture paper pull tabs according to these standards:

1. Construction.

   a. A deal must be designed, constructed, glued, and assembled to prevent the determination of a winning pull tab or numbers or symbols without first removing the tabs or other covering.

   b. All the pull tabs of a deal must have the same game serial number which cannot be repeated on the same form number for three years.

   c. When a tab or other covering is removed, the numbers or symbols must be fully visible in the window. The numbers or symbols can be displaced to the left or right in a window for increased security.

   d. The window slits on a pull tab must be perforated on three sides. A pull tab must be glued on all four edges and between each window. The glue must be of sufficient strength and type to prevent any separation.

2. Opacity. Concealed numbers, symbols, or winner protection features cannot be viewed or determined from the outside of a pull tab using a high-intensity lamp.

3. Color. It must not be possible to detect or pick out winning from losing pull tabs through a variation in printing graphics or colors.

4. Printed information. The minimum information printed on a pull tab must be as follows, except that subdivisions b, c, and d are not required for a folded or banded jar ticket or to a two-ply or three-ply card with only one perforated break-open tab which measures one and one-quarter inches by two and one-quarter inches or less in size, subdivisions a, c, d, and e are not required for pull tabs used with a tip board, and subdivisions b, c, and e are not required for a pull tab used with a prize board:

    a. Name of manufacturer or its logo;

    b. Name of game;

    c. Cost per pull tab;

    d. Manufacturer's form number;

    e. Number of winning pull tabs and winning numbers or symbols, and prize amounts, or a flare must be included with the game providing that information; and

    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 has a prize greater than twenty dollars must have a secondary form of winner verification.

6. Randomization. The winning pull tabs must be intermixed 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. A deal must be assembled so that no placement of winning or losing pull tabs exists that allows prize manipulation or pick out. Banded jar tickets packaged in a bag must be randomized.

7. Guillotine cutting. It must not be possible to isolate winning or potential winning pull tabs of a deal by variations in size or the appearance of a cut edge of the pull tabs.

8. Packaging.

    a. A deal must contain a seal warning the purchaser that the deal may have been tampered with if the container was received with the seal broken. A seal must ensure that a deal's pull tabs are not accessible from outside the container when sealed. A manufacturer shall seal or tape every entry point into the container. The seal or tape must be tamper-resistant and be designed so that should a container be opened or tampered with, it would be easily noticed. 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 cannot be a manufacturer's cellophane shrink wrap.

    b. A manufacturer shall print, in bold letters, "Pull tabs must be removed from this packaging container and thoroughly mixed before sale to the public" or similar language on the outside of a container.

    c. A deal's game serial number must be legibly placed on or be able to be viewed from the outside of the deal's container.

d. For a deal shipped to North Dakota, a flare for a pull tab or jar ticket deal must be located on the outside of the deal's sealed container so that the manufacturer's security seal will not be broken to access the flare.

9. Number of top tier winners. A deal must have at least two top tier winning pull tabs, except for a deal for a prize board and a last sale prize feature.

10. A manufacturer may not duplicate (print) a winning number, symbol, or set of symbols of any nonpromotional jar ticket or pull tab on any promotional jar ticket or pull tab.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-07. Ban or recall of defective pull tabs or punchboards.

1. If the attorney general determines that deals of pull tabs, electronic 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 attorney general orders a ban or recall, the manufacturer of the deal must first be notified of the reason, effective date, and specific requirements. Upon notification, a manufacturer shall cease sale of that deal and initiate compliance with a ban or recall. A manufacturer shall notify, in writing, all distributors within seventy-two hours of the notice, the effective date, and arrange for the prompt return of all the defective deals.

2. A distributor, when notified by a manufacturer or attorney general, shall immediately stop sales or delivery of the deals. Within seventy-two hours, a distributor shall notify the organizations that have bought the deal during the last ninety days, the effective date, and arrange for the prompt return of all the defective deals.

3. Before any reintroduction in North Dakota of a banned or recalled deal, a manufacturer shall submit the revised deal to the attorney general for approval. The attorney general shall notify the manufacturer of the approval or disapproval and the manufacturer shall send a copy of an approving letter to the distributor with the next shipment of the revised deal.

4. If a manufacturer initiates a recall of deals of pull tabs, electronic pull tabs, or punchboards in any state regarding products that were sold in North Dakota, it shall immediately notify the attorney general and comply with this section.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2010; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-08. Manufacturing specifications - 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 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 power cord must be ten feet in length and have a three-prong ground. A surge protector or in-line power filter must be installed in-line on the main ~~powerline~~power line to a device. A device must safely and operatively

withstand a static test of twenty thousand volts of electricity and maintain proper voltage during a low electrical current (brownout);

3. A pull tab device must have at least four columns for stacking pull tabs and have capacity for two thousand four hundred pull tabs. A dispensing device for prize board tickets may have less than four columns for stacking pull tabs;

4. 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 in width by two and five-eighths inches n length, a maximum pull tab size of one and seven-eighths inches in width by four and one-fourth inches in length, or both sizes;

5. A device must be adjustable for varying thicknesses of pull tabs;

6. Glass must be placed in the front of the device enabling an employee to see whether a device is low on pull tabs;

7. A device must have a dispensing outlet or tray to catch a dispensed pull tab;

8. A device must have one currency validator. A coin acceptor is not allowed;

9. A pull tab device must accommodate 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 columns;

10. 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;

11. A pull tab device may have an optional "all" player button that activates the device to dispense pull tabs equal to the value of the unplayed credits and randomly selected by a random number generator or player button sequencing concept. Devices that dispense pull tabs involving a prize board are not required to select tickets by use of a random number generator;

12. 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; and

    b. Unless a device prints reports prescribed by subsection 15, access the accounting information required by subsection 13 and, if the device has nonresettable electronic accounting meters, subsection 14;

13. Unless a device prints reports prescribed by subsection 15, there must be at least two independent resettable electronic or mechanical 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; and

    b. Total number of pull tabs dispensed;

14. Unless a device prints reports prescribed by subsection 15, 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; and

b. Cumulative number of pull tabs dispensed;

15. Unless a device has resettable and nonresettable accounting meters prescribed by subsections 13 and 14, the device must print a cash pickup and a lifetime activity report.

a. A cash pickup and a lifetime activity report must:

(1) Be printed and accessible only from the interior of a device;

(2) State the time and date of the present report and of the preceding report. The time must be expressed in numeric hours and minutes. The hour must be expressed as a.m. or p.m.;

(3) State the unique device number; and

(4) State a sequential report number, which must be at least three digits in length, starting with number one.

b. A cash pickup report, based on resettable electronic accounting meters, must include this information for activity since the preceding report:

(1) For a pull tab device, number and value of pull tabs dispensed from all columns; and

(2) Value of currency validated.

c. A lifetime activity report, based on nonresettable electronic accounting meters, must include this information for activity since a device was manufactured:

(1) For a pull tab device, cumulative number and value of pull tabs dispensed from all columns; and

(2) Cumulative value of currency validated;

16. To ensure a commingling of pull tabs, a random number generator or player button sequencing concept must be used to select a particular column from which a pull tab will be dispensed. A selection process is random if it does not produce a significant statistic of recurring patterns. A player button sequencing concept must field each button at least one hundred times a second. This subsection does not apply to a dispensing device used in the conduct of a prize board;

17. Instructions for player operation must be permanently affixed or placed under glass or other transparent material on the front of a device;

18. A pull tab device must have one or more player buttons located on the front to activate the dispensing of a pull tab. However, excluding an "all" player button, the number of player buttons may not exceed the number of 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 player button sequencing concept. This subsection does not apply to a dispensing device used in the conduct of a prize board;

19. A device must have an LED or LCD display screen of at least four digits in length. However, if a 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 one-quarter of one inch in height. The value of currency validated must be displayed on the LED or LCD screen as a monetary credit which is reduced as a device vends a pull tab. Unless a device prints reports prescribed by subsection 15, the LED or LCD display screen must also display the accounting information required by subsection 13 and pricing information required by subdivision a of subsection 12;

20. A device must record every vend, including a test vend, of a pull tab when the door of the dispensing device is closed and every currency validation on the accounting meters required by subsections 13 and 14 or subsection 15;

21. 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;

22. In a pull tab device a column of pull tabs must automatically discontinue operation, triggered by a micro, optical, or software controlled switch, when the column has fewer than fifty pull tabs remaining. However, this rule does not apply when an organization is closing a game at which time a micro, optical, or software controlled switch may be circumvented;

23. A device must automatically stop operating when there is only one column of pull tabs functioning. 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 stops operating. This subsection does not apply to a dispensing device used in the conduct of a prize board;

24. An identification plate must be affixed to an exterior side panel and contain the device's:

    a. Manufacturer;

    b. Name of device;

    c. Serial and model numbers; and

    ~~c.~~d. Date of manufacture which may be part of the model or serial number;

25. No device may have an auxiliary remote control unit for posting credits;

26. A device must automatically stop operating when a nonresettable meter is disconnected; and

27. A device must have a maintenance and operations manual.

History: Effective May 1, 1998; amended effective July 1, 2002; October 1, 2006; July 1, 2010; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-09.1. Manufacturing specifications - Site system with bingo card-marking devices.

A site system with bingo card marking devices which display a facsimile of a bingo card and allows a player to electronically mark the card in the conduct of bingo according to chapter 99-01.3-04, must meet these specifications:

1. A site system is computer hardware and software used at a site by an organization which establishes server-based player accounts containing electronic card images or credits accessed by a player with a bingo card-marking device or generates and downloads

electronic bingo card images to bingo card-marking devices, accounts for gross proceeds, and provides accounting information on all activity for three years from the end of the quarter in which the activity occurred. Server-based accounts must be assigned a minimum five digit randomly selected account number, which cannot be reused during a business day. Transaction numbers for server-based accounts must be a minimum six digit nonresettable consecutive number, which do not reset at the end of each session. An account or bingo card-marking device can only be used for the purchase and play of bingo cards. A site system must:

a. Record a nonresettable electronic consecutive six-digit receipt number for each transaction;

b. Issue a receipt for each transaction containing:

   (1) Name of a site and organization;

   (2) Date and time of the transaction;

   (3) Receipt number;

   (4) Selling price of each card or package, credits purchased, and rental fee of a device, if applicable;

   (5) Unplayed credits cashed out;

   (6) Receipt total;

   (7) For server-based accounts, account number; and

   (8) For downloaded devices, serial number of the device issued to a player.

c. Print a summary report for each session containing the date and time of the report, name of site, date of the session, consecutive session number, total number of accounts established, total number of transactions, total number and dollar value of voided transactions, number of devices used, the number of and total value for each type of card or package sold, discounts applied to each type of card or package sold, total dollar value of credits sold, total dollar value of unused credits cashed out, total gross proceeds, and, for each transaction, list:

   (1) For server-based accounts, transaction and account number;

   (2) For downloaded devices, nonresettable consecutive transaction number starting with one for each device and device serial number;

   (3) Type of transaction (sale or void);

   (4) Time of transaction;

   (5) Receipt number;

   (6) For voided transactions, dollar value of the void; and

   (7) Selling price of each card or package, discounts applied to each card or package sold, dollar value of credits sold, dollar value of unused credits cashed out, and gross proceeds.

d. The site system must be capable of producing and exporting through electronic means (e.g. comma delimited, excel, etc.) all required reports.

e. Must be remote-accessible by the manufacturer of the site system and devices and attorney general for monitoring the system operation and accounting information in real time; and

f. Must be capable of printing an electronic card image of any card.

2. A bingo card-marking device ~~must~~can be a portable hand-held unit ~~and~~, table top, or counter device. A bingo card-marking device cannot be wired directly to a site system.

3. A bingo card-marking device must be programmed for use at only the site where the site system is located and only used to purchase and play bingo cards or play electronic quick shot bingo.

4. No bingo card-marking device can allow more than seventy-two single-faced cards per game. A player may not choose or reject cards.

5. A bingo card-marking device may require a player to manually enter each bingo number by using an input function key or may use a radio frequency or Wi-Fi transmission to automatically daub the bingo numbers called.

6. A bingo card-marking device can display a player's best card or a winning card and alert the player through an audio or video method, or both, that the player has a winning card.

7. All server-based accounts must be closed at the end of each bingo session. An account cannot be carried forward to another session.

8. All downloaded devices, must:

a. Have a unique serial number permanently encoded in the system;

b. Be downloaded with new cards at the time of the sales transaction;

c. Be deactivated and all stored cards erased when a device is exchanged or returned; and

d. Automatically erase all stored cards at the end of the last game of a bingo session or when the device is deactivated or turned off.

History: Effective July 1, 2000; amended effective July 1, 2002; October 1, 2006; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-09.4. Manufacturing specifications - Electronic quick shot bingo site operating systems with card-marking devices.

An electronic quick shot bingo site operating system with card-marking devices and related equipment used in the conduct of electronic quick shot bingo according to chapter 99-01.3-04.1 must meet these specifications:

1. The card-marking device must not display any other graphic representations other than the game of bingo, except for advertising. The card-marking device must not accept cash, currency, or tokens for play. The card-marking device must be rendered unplayable if communications from the electronic quick shot bingo site operating system are lost.

2. The card-marking device must display:

a. The player's credit balance;

b. The player's wins balance;

c. The current bet amount;

d. The denomination being played;

e. All possible winning patterns, or be made available as a menu item;

f. The amount won for the last completed game until the next game starts;

g. The player options selected, including amount and number of cards purchased, for the last completed game until the next game starts or a new selection is made; and

h. The phrase "malfunction voids all pays and plays" on the game selection screen, game screen, or on a decal affixed to the front of the device.

3. A card-marking device must be a portable hand-held unit and cannot be wired directly to a site operating system.

4. A card-marking device can only be used at the site where the electronic quick shot bingo site operating system is located and only used to play electronic quick shot bingo or to purchase and play bingo cards.

5. No card-marking device can allow more than sixteen single-faced cards per game. The cost per play cannot exceed five dollars per card.

6. Each card must have a unique series (card) number which will have an unduplicated face.

7. Electronic cards must contain a five-by-five grid of space and must contain one square labeled "free" space. A bingo number cannot be repeated in more than one square on the same card. The same series (card) number may not appear more than once on each game.

8. A card-marking device can display a player's best card or a winning card and alert the player through an audio or video method, or both, that the player has a winning card.

9. When a number is covered, the covering must be indicated on the electronic card by a change in the color of the space or some other readily apparent visual means.

10. A card-marking device must use a radio frequency or Wi-Fi transmission to automatically daub the bingo numbers called.

11. "Electronic quick shot bingo site operating system" means computer hardware, software, and peripheral equipment, that is located at the bingo premise, is operated by the organization conducting bingo, and interfaces with, connects with, controls, or defines the operational parameters of the card-marking devices. Electronic quick shot bingo site operating systems must include the following: central database service, portable hand-held card-marking devices, point of sale, required printers, remote access capability, proprietary executable software, report generation software, and an accounting system and database. Player accounts are established on the site operating system's central database server and are accessed by a player with a hand-held card-marking device. Server-based accounts must be assigned a minimum five digit randomly selected account number, which cannot be reused during a business day. Transaction numbers must be assigned to all transactions, including sales, voids, redemptions, plays, and wins. Transaction numbers must be a minimum six digit nonresettable consecutive number, which do not reset at the end of each session. An account or card-marking device can only be used for the purchase and play of bingo cards.

12. An electronic quick shot bingo site operating system must account for and provide accounting information on all activity for three years from the end of the quarter in which the activity occurred. It must:

a. For each session, archive all electronic transactions of sales, voids, redemptions, plays, wins, balls called, winning bingo patterns, ~~prizes awarded,~~ and the winning cards for prizes greater than ~~two~~five hundred dollars;

b. Include a printer with a paper-sensing device that upon sensing a "paper low" condition will allow the system to finish printing the receipt and then prevent further receipt writing. Each system must recognize a printer power loss occurrence and cease transactions until power has been restored to the printer and the system is capable of producing a valid receipt;

c. Be remote-accessible by the manufacturer of the system and attorney general for monitoring the system operation and accounting information in real time;

d. Not allow date, time, credit balance, or other source information to be changed;

e. Not allow automatic transfer, by a player or employee, of any winnings balance to the credit (deposit) balance on a card-marking device;

f. Account for each session with a nonresettable electronic consecutive session number;

g. Account for each transaction on the system with a nonresettable electronic consecutive receipt number at least six digits in length;

h. Be capable of printing an electronic card image of any card; and

i. Issue a receipt for each cashier transaction containing:

(1) Name of a site and organization;

(2) Receipt number;

(3) Date and time of the transaction;

(4) Account number;

(5) Dollar value of credits purchased;

(6) Dollar value of credits cashed out;

(7) Dollar value of winnings cashed out; and

(8) Dollar value of credit balanced.

j. Print a summary report for each session containing:

(1) Name of site and organization;

(2) Date of the session;

(3) Session number;

(4) Date and time of the report;

(5) Total number of accounts established;

(6) Total number of transactions;

(7) Range of transaction numbers;

(8) Total number and dollar value of voided transactions;

(9) Total dollar value of credits sold;

(10) Total dollar value of unplayed credits cashed out;

(11) Total gross proceeds;

(12) Total prizes won;

(13) Total unclaimed prizes;

(14) Total prizes paid; and

(15) Adjusted gross proceeds

k. Have the ability to print a transaction report for each session which includes for each transaction:

(1) Transaction number;

(2) Time of transaction;

(3) Type of transaction (sale, redemption, ~~or~~ void, plays, or wins);

(4) Account number;

(5) Receipt number(s);

(6) For voided transactions, dollar value of the void;

(7) Dollar value of credit amount;

(8) Wagered amount;

(9) Wins amount;

(10) Redemption amount;

(11) Bonus accrual amount, if applicable; and

(12) User ID of employee conducting transaction.

l. Print a report of single prizes exceeding ~~two~~five hundred dollars, including:

(1) Date of the session;

(2) Session number;

(3) Account number;

(4) Winning series (card) number; and

(5) Prize amount.

m. Print a report of the bingo balls entered or numbers generated for each session, including bonus balls or numbers, which includes:

(1) Date of the session;

(2) Session number;

(3) Time entered or generated; and

(4) User ID of employee conducting transaction.

n. The electronic quick shot bingo site operating system must be capable of producing and exporting through electronic means (e.g. comma delimited, excel, etc.) all required reports.

13. All server-based accounts must be closed at the end of each bingo session. An account cannot be carried forward to another session or reused after a player has turned in a card-marking device.

14. All communications between the card-marking devices and the site operating system must be encrypted for security reasons. The wireless deployment must employ a secure gateway to isolate the wireless environment from any other environment. The secure gateway must be configured in a manner that prevents any wireless network component from gaining access to the internal network without first being scrutinized.

15. Electrical and mechanical components and design principles of the system may not subject a person to any physical hazard or cause electrical interference.

16. A surge protector that feeds all power to the equipment must be installed to ensure the equipment must not be adversely affected by surges or dips of plus or minus twenty percent of the supply voltage.

17. A battery backup must be installed on the electronic quick shot bingo site operating system and must be capable of maintaining the accuracy of all information required by this section for ninety days after power is discontinued from the system.

18. The operation of the electronic quick shot bingo site operating system must be impervious to influences from the outside of the system, including electromagnetic interference, electrostatic interference, and radio frequency interference.

19. The electronic quick shot bingo site operating system must not have any switches, jumpers, wire posts, or other means of manipulation that could affect the operation or outcome of a game.

20. Logical access to the electronic quick shot bingo site operating system must be restricted by user identifications and passwords.

21. A manufacturer of an electronic quick shot bingo site operating system shall employ sufficient security safeguards in designing and manufacturing the system such that it may be verified that all proprietary software components are authentic copies of the approved software components and all functioning components of the system are operating with identical copies of approved software programs. The card-marking devices must also have sufficient security safeguards so that any approved proprietary software are protected from alteration by unauthorized personnel. Security measures that may be employed to comply with these provisions are the use of dongles, digital signature comparison hardware and software, secure boot loaders, encryption, and password systems.

22. An electronic quick shot bingo site operating system may not have a mechanism whereby an error will cause the game data to automatically clear. Game data must be maintained at all times regardless of whether the system is being supplied with power. Game data must be stored in such a way as to prevent loss of the data when replacing parts or modules during normal maintenance.

23. The electronic quick shot bingo site operating system must have a backup and archive utility to allow the operator to save critical data should a system failure occur. This backup must automatically run after the end of each session or may be a manual process to be run at the operator's command after the end of each session.

24. The use of a random number generator may be used in the selection of bingo balls. The selection must be statistically independent, pass recognized statistical tests, and be unpredictable.

25. A card-marking device must automatically stop operating when a winning bingo pattern exceeding ~~two~~five hundred dollars is won by the player and must display a notification to the player to contact an employee. However, this rule does not apply when an electronic quick shot bingo site operating system displays the prize amounts greater than ~~two~~five hundred dollars when a player redeems the prize winnings from the player's account.

History: Effective July 1, 2012; amended effective April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-09.5. Manufacturing specifications - Fifty-fifty raffle system.

A fifty-fifty raffle system and related equipment used in the conduct of raffles according to chapter 99-01.3-05.1 must meet the specifications of the most current version of gaming laboratories international, LLC's standard for electronic raffle systems, GLI-31. In addition, the following specifications must be met:

1. In the use of handheld raffle sales units outside of a wireless network area, the units must have the ability to transfer the sold draw numbers and corresponding validation numbers to the fifty-fifty raffle system should a raffle sales unit become inoperable.

2. For each single event raffle, a fifty-fifty raffle system must account for and provide accounting information on all activity for three years from the end of the quarter in which the activity occurred. It must:

   a. Record all raffle sales transactions electronically as they occur;

   b. Account for each single event raffle with a nonresettable electronic consecutive event number;

   c. ~~Account for each draw number sale in continuous consecutive order by raffle sales unit~~Record and account for each draw number downloaded from the server in continuous consecutive order;

   d. Generate a summary report for each single event raffle which includes:

      (1) Name of organization and license number;

      (2) Name of site;

      (3) Date;

      (4) Event number;

(5) Range of draw numbers and total number of draw numbers available for sale;

(6) Selling prices of each differently priced bearer ticket, including the number of draw numbers on each differently priced ticket;

(7) Number of tickets sold for each differently priced bearer ticket and total receipts for each;

(8) Total number of sold draw numbers;

(9) Total number of voided bearer tickets and draw numbers;

(10) Total number of unsold draw numbers;

(11) Total gross proceeds;

e. Generate a raffle sales unit report for each single event raffle which includes:

(1) Name of organization and license number;

(2) Name of site;

(3) Date;

(4) Event number;

(5) For each raffle sales unit, unit ID, the number of sold bearer tickets for each differently priced ticket and total receipts for each;

(6) Total receipts for each sales unit;

(7) For each raffle sales unit, total number of sold draw numbers, total number of voided bearer tickets and draw numbers, and total number of unsold draw numbers;

(8) Total gross proceeds;

f. Have the ability to generate general accounting and operating reports, containing the date and time reports are printed, for each raffle drawing to include:

(1) System exception report, including changes to system parameters, corrections, overrides, and voids;

(2) Bearer ticket report that includes a list of all bearer tickets sold, including all associated draw numbers, selling price, and raffle sales unit ID;

(3) Voided draw number report that includes a list of all voided draw numbers;

(4) Unsold draw number report that includes a list of all unsold draw numbers;

(5) Raffle sales unit corruption report that lists all raffle sales units that were unable to be reconciled to the system, including the raffle sales unit ID, seller, and money collected.

g. The fifty-fifty raffle system must be capable of producing and exporting through electronic means (e.g. comma delimited, excel, etc.) all required reports.

3. The fifty-fifty raffle system must be remote-accessible by the manufacturer of the system and attorney general for monitoring the system operation and accounting information in real time.

4. The wireless deployment of communications between the raffle sales units and the system must employ a secure gateway to isolate the wireless environment from any other environment. The secure gateway must be configured in a manner that prevents any wireless network component from gaining access to the internal network without first being scrutinized.

~~4.~~5. A surge protector that feeds all power to the equipment must be installed to ensure the equipment must not be adversely affected by surges or dips of plus or minus twenty percent of the supply voltage.

~~5.~~6. A fifty-fifty raffle system must be capable of maintaining the accuracy of all information required by this section for ninety days after power is discontinued from the system.

~~6.~~7. The fifty-fifty raffle system must be impervious to influences from the outside of the system, including electromagnetic interference, electrostatic interference, and radio frequency interference.

~~7.~~8. The fifty-fifty raffle system must not have any switches, jumpers, wire posts, or other means of manipulation that could affect the operation or outcome of a game.

~~8.~~9. A manufacturer of a fifty-fifty raffle system and related equipment shall employ sufficient security safeguards in designing and manufacturing the system such that it may be verified that all proprietary software components are authentic copies of the approved software components and all functioning components of the system are operating with identical copies of approved software programs. The system must also have sufficient security safeguards so that any approved proprietary software is protected from alteration by unauthorized personnel. Security measures to comply with these provisions may consist of the use of dongles, digital signature comparison hardware and software, secure boot loaders, encryption, and password systems.

~~9.~~10. The backup and archive utility that allows the operator to save critical data if a system failure occurs should automatically run after the end of each raffle or may be a manual process to be run at the operator's command after the end of each raffle.

History: Effective April 1, 2016; amended effective July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-09.6. Manufacturing specifications - Electronic pull tab device with operating system.

An electronic pull tab device is part of an electronic pull tab device operating system approved by the attorney general. An electronic pull tab device operating system must be dedicated primarily to electronic accounting, reporting, and the presentation, randomization, and transmission of electronic pull tabs to the electronic pull tab device. It also must be capable of generating the data necessary to provide the reports required within this section or otherwise specified by the attorney general. A manufacturer of an electronic pull tab device with operating system must have the device and system tested by an approved independent testing laboratory as required in section 99-01.3-16-10. All game themes, sounds, and music also must be approved by the attorney general prior to being available for play on an electronic pull tab device in North Dakota. An electronic pull tab device and operating system and related equipment used in the conduct of electronic pull tabs according to chapter 99-01.3-06.1 must meet these specifications:

1. All equipment used to facilitate the distribution, play, or redemption of electronic pull tabs must be physically located within the boundaries of the state of North Dakota. Electronic pull tab device operating systems and all secondary components must be located on the licensed premises.

2. A manufacturer's central computer system must include a central server located in North Dakota which is accessible to the attorney general. The attorney general shall have the ability to remotely verify the operation, compliance, and internal accounting systems of the electronic pull tab operating system at any time. The attorney general shall have real time and complete read-only access to all data for all systems and devices.

3. Manufacturers shall provide technical assistance and training in the service and repair of its electronic pull tab devices and associated equipment to distributors and organizations to ensure the continued, approved operation, and play of its machines purchased for placement in the state; however, manufacturers shall not be involved in the direct ongoing service on behalf of a distributor or organization.

4. An electronic pull tab device must allow a player to purchase an opportunity to play an electronic pull tab by insertion of United States paper currency only. A player wins if the player's electronic pull tab contains a combination of numbers, letters, or symbols that were designated in advance of the game as a winning combination. There may be multiple winning combinations on each pull tab. Electronic pull tab devices must only allow players to purchase and play electronic pull tabs. Authorized games for electronic pull tab devices must conform to the following standards:

   a. The available games, master flare for each game, and rules of play must be displayed on the electronic pull tab device's video screen. Rules of play must include all winning combinations. The display clearly must indicate prizes in United States currency amounts.

   b. All prize structure information for a deal must be accessible by a player, prior to purchase of an electronic pull tab ticket.

   c. The electronic pull tab device must have one or more buttons, electromechanical or touchscreen, to facilitate the following functions:

      (1) Viewing of the game "help" screens;

      (2) Viewing of the game rules, including the flare and prize structure information;

      (3) Initiating game play;

      (4) Cash out; and

      (5) One or more buttons designated to reveal the pull tab windows.

   d. Each electronic pull tab initially must be displayed so that the numbers, letters, or symbols on the pull tab are concealed. Each electronic pull tab game must require the player to press a "play", "purchase", "open", or equivalent button to initiate the play of an electronic pull tab. A player may have the option of opening each individual line, row, or column of each electronic pull tab or may choose to "open all".

   e. An electronic pull tab game may not have any bonus features or have or be part of a progressive system. No level of player skill may be involved. An extended play feature may be used in which a player may play without additional consideration. The extended play feature must not interfere with or in any way affect the outcome of any finite game being played.

   f. No more than six electronic pull tab games may be selectable for play on any given electronic pull tab device. Only one of the games can be played at any given time.

g. Game themes may not contain offensive or obscene graphics, animations, or references. The attorney general shall determine what constitutes obscene or offensive graphics, animations, or references.

h. An electronic pull tab device may not be capable of displaying any enticing animation while in an idle state. A device not in play may not display flashing lights or illuminations, bells, whistles, or other sounds, solely intended to entice players to play. Only game information or licensed gaming organization promotion, or both, may be displayed while not in play. An electronic pull tab device may use simple display elements or screen savers that promote the licensed charitable organization to prevent monitor damage.

i. Following play on an electronic pull tab device, the result must be clearly shown on the video display along with any prizes that may have been awarded. Prizes must be dispensed in the form of a credit ticket voucher or added to the credit balance meter.

j. The results of the electronic pull tab must be shown to the player using a video display. No rolling, flashing, or spinning animations are permitted. No rotating reels marked into horizontal segments by varying symbols are permitted.

k. The game serial number of the played pull tab must be displayed clearly on the video display.

l. The default electronic pull tab device display, upon entering game play mode, may not be the top prize.

5. An available balance may be collected from the electronic pull tab device by the player by pressing the "cash out" button and receiving a credit ticket voucher at any time other than during:

a. A game being played;

b. While in an audit mode;

c. Any door open;

d. Test mode;

e. A credit meter or win meter incrementation, unless the entire amount is placed on the meters when the "cash out" button is pressed; or

f. An error condition.

6. An electronic pull tab device may not have hardware or software that determines the outcome of any electronic pull tab, produces its own outcome, or affects the order of electronic pull tabs as dispensed from the electronic pull tab operating system. The game outcome must be determined by the electronic pull tab operating system as outlined within these rules.

7. An electronic pull tab device may not be capable of displaying the number of electronic pull tabs that remain in the game or the number of winners or losers that have been awarded or still remain in the game while the game is still being played.

8. Each electronic pull tab deal must meet the following minimum requirements:

a. Each deal must be made up of a fixed number of electronic pull tabs not to exceed a maximum of fifteen thousand and no less than two thousand electronic pull tabs;

b. All electronic pull tabs in a particular deal must be of the same purchase price and may not exceed the maximum two dollar sales price per pull tab set forth by North Dakota Century Code section 53-06.1-08;

c. The maximum prize amount awarded for a winning combination of numbers, letters, or symbols on each electronic pull tab may not exceed five hundred dollars as set forth for pull tabs by North Dakota Century Code section 53-06.1-08;

d. A deal must have at least two top tier winning pull tabs;

e. Each deal may not payout more than ninety percent of gross proceeds;

f. Each deal must be assigned a unique serial number; and

g. Each deal must be assigned a unique state gaming stamp number by the distributor prior to delivery to the organization site server.

9. The following electronic pull tab deal information must be available prior to the opening of a deal for distribution and must be maintained and be viewable both electronically and, if requested, by printed report:

a. Game identification;

b. Deal version;

c. Manufacturer;

d. Game name;

e. Prize structure identification;

f. The state gaming stamp number assigned by the distributor for each deal;

g. A unique serial number identifying each deal;

h. The total number of electronic pull tabs in the deal;

i. The purchase price per electronic pull tab assigned to the deal;

j. Prize structure, including each prize value included in the deal and the number of each, and an associated index number; and

k. The payout percentage of the deal.

10. At the beginning of a quarter, at least two, and no more than two electronic pull tab deals must be downloaded and commingled on the site server for each game. The games deal must be identical, which includes game identification, deal version, manufacturer, game name, total number of electronic pull tabs, purchase price per electronic pull tab ticket, and prize structure.

11. For each game, when the unsold tickets of the original starting identical two deals reach two thousand pull tab tickets remaining, at least one full deal, but no more than one additional identical deal of the same game, must be automatically downloaded onto the site server and commingled with the remaining two thousand tickets of that game. Each time the two thousand ticket threshold is reached, an additional deal must automatically be downloaded and commingled with the remaining electronic pull tab tickets in the game continuously throughout the entire quarter.

12. All games must be played by drawing from commingled finite deals. The site server must dispense, upon request from an electronic pull tab device, an electronic pull tab. All finite games must be played without replacement. Once dispensed, a pull tab cannot be reused.

13. No game may be closed during a quarter unless approved by the attorney general and all games must be closed at the same time within fourteen calendar days from the end of a quarter. Once closed, a game and its deals cannot be reopened. Quarter beginning and end dates are:

    a. January first through March thirty-first;

    b. April first through June thirtieth;

    c. July first through September thirtieth; and

    d. October first through December thirty-first.

14. Electronic pull tab games or deals must be closed and archived at the end of each quarter. No closed electronic pull tab game or ticket can be sold after the electronic pull tab game is closed.

15. One or more electronic accounting systems must be required to perform reporting and other functions in support of the electronic pull tab operating system activities described in this section. These systems may communicate with the other computers described elsewhere in this document, utilizing the protocol standards agreed upon by the participating suppliers. The electronic accounting system must not interfere with the outcome of any gaming functions.

16. An electronic pull tab device operating system site server along with the manufacturer's central computer system's central server must account for and provide accounting information on all electronic pull tab activity for three years from the end of the quarter in which the activity occurred. An electronic pull tab device operating system site server along with the manufacturer's central computer system's central server must have the capabilities to generate and print the following records and reports:

    a. Interim period electronic pull tab device activity report, generated and printed each interim period for each separate device. An interim period is the accounting period since the last time electronic pull tab activity was accounted for. This report accounts for activity conducted by a device since the last interim period electronic pull tab device report was generated. The report must include the following information:

        (1) Organization and site name;

        (2) Date and time the report was generated;

        (3) Device identification or serial number;

        (4) Total cash in since last interim period;

        (5) For each electronic pull tab game and in total for all games, total dollar value of plays since last interim period;

        (6) For each electronic pull tab game and in total for all games, total dollar value of prizes awarded since last interim period; and

        (7) Total dollar value of credit ticket vouchers issued since last interim period.

    b. Deals in play report that accounts for all electronic deals of pull tabs currently in play for each game at a site. The report must include the following information:

(1) Organization and site name;

(2) Date and time the report was generated;

(3) Game name and manufacturer;

(4) State gaming stamp number of each deal;

(5) Serial number of each deal;

(6) Cost per pull tab;

(7) Number of pull tabs per deal;

(8) Ideal gross proceeds per deal;

(9) Ideal prizes per deal;

(10) The payout percentage per deal;

(11) Date and time each deal was put into play; and

(12) Total number of deals put into play for the game.

This report may not include any information as it relates to the number of pull tabs sold, number of unsold pull tabs, or prizes awarded for each deal or game.

c. Monthly interim audit report for each electronic pull tab game at a site. The report must include the following information:

(1) Organization and site name;

(2) Date and time the report was generated;

(3) Game name and manufacturer;

(4) Total dollar value of plays (gross proceeds); and

(5) Total prizes awarded.

This report may not include any information as it relates to the number of unsold pull tabs remaining in the game or a breakdown of prizes awarded, including prize values and quantity of each.

d. Electronic pull tab closed game summary report for each game at a site, which can only be generated and printed after the game is closed. The report must include the following information:

(1) Organization and site name;

(2) Date and time the report was generated;

(3) Game name and manufacturer;

(4) State gaming stamp number and serial number of each deal played in the game;

(5) Date and time each deal was placed into play;

(6) Total number of deals played in the game;

(7) Number of pull tabs per deal;

(8) Cost per pull tab;

(9) Ideal gross proceeds per deal;

(10) Ideal prizes per deal;

(11) Total number of unsold pull tabs;

(12) Total gross proceeds for the game;

(13) Total prizes for the game, including a breakdown of prizes by prize value and quantity of each awarded;

(14) Final payout percentage for the game;

(15) Total adjusted gross proceeds for the game; and

(16) Date and time game was closed.

Only upon the close of a game at the end of the quarter can the finite details of a game be made available. Generating this report prior to the game being closed must cause immediate and automatic termination of the entire game.

17. All accounting information from an electronic pull tab device operating system site server must be automatically downloaded to the manufacturer's central computer system's central server immediately after the close of electronic pull tab activity each business day.

a. An organization shall have the capabilities of printing all required records and reports from the site server and the manufacturer's central computer system's central server.

b. An organization's electronic pull tab device operating system may be programmed for hours of operation based on when alcoholic beverages may be dispensed according to applicable regulations of the state, county, or city.

18. Electronic pull tab devices must be a stand-alone cabinet style device. No device may be a hand-held portable device or affixed to a bar, counter, or table top. Electronic pull tab devices must conform to the following minimum standards:

a. An electronic pull tab device must be labeled clearly so as to inform the public that no one under twenty-one years of age is allowed to play.

b. No more than five devices may be installed at a site. An organization may request, in writing, a waiver to the number of devices installed for consideration by the attorney general not to exceed fifteen devices per site;

c. An electronic pull tab device must only be used to play electronic pull tabs. No other game type may be played on the device and no level of skill must be involved;

d. An electronic pull tab device may not be part of a progressive system or employ any other features, such as bonus plays, promotions, or other gaming management or marketing functions. An extended play feature may be used in which a player may play without additional consideration. An extended play feature must not interfere with or in any way affect the outcome of any finite game being played. If an extended play feature is used, a notification must be provided to the player explaining that an extended play feature is used on the game and that "Extended play features prolong the play of an

electronic pull tab ticket but do not award a prize in addition to the predetermined prize for that ticket";

e. In addition to a video or touchscreen, each electronic pull tab device must include a currency acceptor and validator, printer, and buttons for activating the game and providing player input, including a means for the player making selections and choices in games;

f. Each electronic pull tab device must have a nonvolatile backup memory or its equivalent, which must be maintained in a secure compartment on each electronic pull tab device for the purpose of storing and preserving a redundant set of critical data which has been error-checked in accordance with the critical memory requirements of this regulation and which data must include, at a minimum, the following information:

(1) Electronic meters as required by subsection 33 of section 99-01.3-16-09.6;

(2) Recall of all ticket purchases and electronic ticket numbers and serial numbers associated with the last ten plays; and

(3) Error conditions that may have occurred on the electronic pull tab device which include:

(a) Nonvolatile memory error control program error;

(b) Low nonvolatile memory battery, for batteries external to the nonvolatile memory itself, or low power source;

(c) Program error or authentication mismatch; and

(d) Power reset.

g. An on/off switch that controls the electrical current that supplies power to the electronic pull tab device, which must be located in a secure place;

h. An electronic pull tab operating system must support a mechanism to manually disable play on electronic pull tab devices. Additionally, a mechanism to disable or enable each electronic pull tab device must be made available to appropriate individuals to disable play during nonbusiness hours or as otherwise required;

i. An electronic pull tab device may not have any spinning or mechanical reels, pull handle, sounds or music solely intended to enticing a player to play, flashing lights, tower light, top box, coin tray, ticket acceptance, hopper, coin acceptor, enhanced animation, cabinet or pay glass artwork, or any other attribute identified by the attorney general; and

j. All hardware switches and jumpers must be fully documented for evaluation by the test laboratory. Hardware switches, jumpers, and system configurations that may alter the jurisdictional-specific configuration settings, prize structure, game denomination, or payout percentages must meet configuration settings specified in subdivision e of subsection 8 of section 99-01.3-16-09.6 and must be housed within a logic compartment of the electronic pull tab device. This includes top prize changes, selectable settings, or any other option that would affect payout percentage.

19. An electronic pull tab device must be robust enough to withstand forced entry that would leave behind physical evidence of the attempted entry, or such entry causes an error code that is displayed and transmitted to the central computer system, and which inhibits game play until cleared, and which does not affect the subsequent play or any other play, prize, or aspect of the game.

20. An electronic pull tab device must be designed so that power and data cables into and out of the electronic pull tab device can be routed so that they are not accessible to the general public. Security related wires and cables that are routed into a logic compartment must be securely fastened within the interior of the device.

21. Proof of UL or equivalent certification must be required for all submitted electronic pull tab devices.

22. An electronic pull tab device must have an identification tag affixed to the exterior of the device by the manufacturer, which is not removable without leaving evidence of tampering, and this tag must include the following information:

a. The manufacturer;

b. A unique serial number;

c. The electronic pull tab device model number; and

d. The date manufactured.

23. An electronic pull tab device may not be adversely affected, other than resets, by surges or dips of greater than twenty percent of the supply voltage.

24. An electronic pull tab device must have a locked external front door in which the interior of the terminal must not be readily accessible when such door is in the closed, locked position. The following rules apply:

a. Doors must be manufactured of materials that are suitable for allowing only legitimate access to the inside of the cabinet and must leave evidence of tampering if such an entry is made;

b. All external doors must be locked and monitored by door access sensors, which must detect and report all external door openings to the electronic pull tab device and trigger an audible alarm and on-screen display;

c. The electronic pull tab device must cease play when any external door is opened;

d. It must not be possible to insert a device into the electronic pull tab device which will disable a door open sensor when the electronic pull tab device's door is closed, without leaving evidence of tampering;

e. The sensor system must register a door as being open when the door is moved from its fully closed and locked position, provided power is supplied to the terminal; and

f. Door open conditions must be recorded in an electronic log that includes a date and time stamp.

25. Electronic pull tab devices that contain control programs located within an accessible area must have a separate internal locked logic compartment which must be keyed differently than the front door access lock. The logic compartment must be a locked cabinet area with its own locked door, which houses critical electronic components that have the potential to significantly influence the operation of the electronic pull tab device. There may be more than one such logic area in an electronic pull tab device. The logic door must be monitored. Electronic components that are required to be housed in one or more logic areas are:

a. Central processing units and any program storage device that contains software that may affect the integrity of gaming, including the game accounting, system communication, and peripheral firmware devices involved in, or which significantly influence, the

operation and calculation of game play, game display, game result determination, or game accounting, revenue, or security;

b. Communication controller electronics and components housing the communication program storage media or the communication board for the online system may reside outside the electronic pull tab device;

c. The nonvolatile memory backup device, if applicable, must be kept within a locked logic area; and

d. Logic compartment door open conditions must be recorded in a log that includes a date and time stamp.

26. All electronic pull tab devices must accept United States paper currency only through a currency validator. All currency validators must be able to detect the entry of valid currency and provide a method to enable the electronic pull tab device software to interpret and act appropriately upon a valid or invalid input. The currency validator must be electronically based and be configured to ensure that they only accept valid currencies of legal tender and must reject all other items. Rejected currencies should be returned to the player. The currency validator must be constructed in a manner that protects against vandalism, abuse, or fraudulent activity. In addition a currency validator must meet the following rules:

a. Each valid currency must register the actual monetary value received for the denomination being used on the player's credit meter;

b. Credits must only be registered when:

(1) The currency has passed the point where it is accepted and stacked; and

(2) The validator has sent the "irrevocably stacked" message to the electronic pull tab device.

c. Each currency validator must be designed to prevent the use of cheating methods, such as stringing, the insertion of foreign objects, and any other manipulation that may be deemed as a cheating technique. A method for detection of counterfeit currencies must be implemented;

d. Acceptance of any currencies for crediting to the credit meter must only be possible when the electronic pull tab device is enabled for play. Other states, such as error conditions, including door opens, audit mode, and game play, must cause the disabling of the currency validator system;

e. Each electronic pull tab device and currency validator must have the capability of detecting and displaying the following error conditions, and must cause the electronic pull tab device and currency validator to lock up and require authorized intervention to clear:

(1) Stacker full;

(2) Currency jams;

(3) Stacker door open;

(4) Stacker removed; and

(5) Any currency validator malfunction not specified above.

f. All currency validators must communicate to the electronic pull tab device using a bidirectional protocol;

g. If a currency validator for an electronic pull tab device is designed to be factory set only, it must not be possible to access or conduct maintenance or adjustments to those currency validators in the field, other than:

(1) The selection of currencies;

(2) Changing of certified control program media or downloading of certified software;

(3) Adjustment of the currency validator for the tolerance level for accepting currencies of varying quality should not be allowed externally to the electronic pull tab device;

(4) Maintenance, adjustment, and repair per approved factory procedures; or

(5) Options that set the direction or orientation of currency acceptance.

h. The electronic pull tab device must maintain sufficient electronic metering to be able to display the following:

(1) Total monetary value of all currencies accepted;

(2) Total number of all currencies accepted; and

(3) A breakdown of the currencies accepted and the number of currencies accepted for each currency denomination.

i. The information in subdivision h must be retained in the electronic pull tab device memory and display the above required information of the last five currencies accepted by the currency validator. The currency validator recall log may be combined or maintained separately by currency type. If combined, the type of currency accepted must be recorded with the respective time and date stamp.

j. Each currency validator must have a secure stacker and all accepted currencies must be deposited into the secure stacker. The secure stacker and its receptacle are to be attached to the electronic pull tab device in such a manner so that they cannot be easily removed by physical force and must meet the following rules:

(1) The currency validator device must have the ability to detect a stacker full condition; and

(2) There must be a separate keyed lock to access the stacker area. This keyed lock must be separate from the main door.

k. A currency validator must be located in a locked area of the terminal but not in the logic area. Only the currency insertion area will be accessible by the player.

27. All electronic pull tab devices must have a printer to issue the player a printed credit ticket voucher for any unused game plays and winnings or both. The printer must print on a voucher or other ticket stock meeting the criteria outlined in this section. The electronic pull tab device must support the transmission of voucher out data to the electronic pull tab system that records the following information regarding each credit ticket voucher printed:

a. Value of cash out which may include remaining credits, unused game plays, or winnings, or any combination, in United States currency amounts in numerical form;

b. Time of day the voucher was printed in twenty-four hour format showing hours and minutes;

c. Date the voucher was printed, including the day, month, and year;

d. The name of the organization and site name;

e. Serial number of the electronic pull tab device which printed the voucher;

f. Validation number which can be used to uniquely identify each voucher issued;

g. The phrase that the credit ticket voucher must be redeemed on the same business day;

h. If the electronic pull tab device is capable of printing a duplicate voucher, the duplicate voucher must clearly state the word "DUPLICATE" on its face.

28. To further meet the requirements of subdivisions a through h of subsection 27, the electronic pull tab device must have the ability to retain a log of the last twenty-five voucher-out events. The voucher-out log must contain sufficient information to reconstruct the voucher-out event in order to resolve potential player disputes.

29. A printer must be located in a locked area of the electronic pull tab device but may not be housed within the logic area. The printer may be locked in the currency validator area provided the validator has a secure, separately keyed lock securing the access to its stacker.

30. A printer must have mechanisms to allow control program software to interpret and place the electronic pull tab device inoperable upon the following conditions:

a. Out of paper;

b. Printer jam, failure; and

c. Printer disconnected.

31. The printer must use printer paper containing security features, such as a watermark as approved by the attorney general.

32. Video monitors and or touchscreens must meet the following rules:

a. Touchscreens must be accurate once calibrated and must maintain that accuracy for at least the manufacturer's recommended maintenance period;

b. A touchscreen should be able to be recalibrated without access to the electronic pull tab device cabinet other than opening the main door; and

c. There may not be any hidden or undocumented buttons or touch points anywhere on the touchscreen which affect game play or which impact the outcome of the game.

33. The credit meter must be maintained in cash value and must at all times indicate all cash available for the player to purchase tickets or cash out with the exception of when the player is viewing an informational screen, such as a menu or help screen item. This should be displayed to the player unless a tilt condition or malfunction exists.

a. The dollar value of every prize at the end of a play must be added to the player's credit meter.

b. There must be a collect meter, which shows the amount of cash collected by the player upon a cash out. This should be displayed to the player unless a tilt condition or malfunction exists. The amount of cash collected must be subtracted from the player's credit meter and added to the collect meter.

c. The software meter information must only be accessible by an authorized person and must have the ability to be displayed on demand using a secure means.

d. Electronic accounting meters must be at least ten digits in length. These meters must be maintained in credit units equal to the dollars and cents. Eight digits must be used for the dollar amount and two digits used for the cents amount. The meter must roll over to zero upon the next occurrence, and any time the meter exceeds ten digits and after 9,999,999,999 has been reached or any other value that is logical. Occurrence meters must be at least eight digits in length; however, are not required to automatically roll over. Meters must be labeled so they can be clearly understood in accordance with their function. All electronic pull tab devices must be equipped with a device, mechanism, or method for retaining the value of all meter information specified in these rules which must be preserved in the event of power loss to the device. The required electronic meters are as follows:

(1) Total cash in;

(2) Total cash played;

(3) Total cash, prizes won;

(4) Total cash removed from the electronic pull tab device;

(5) Total count of electronic pull tabs played; and

(6) Total count of electronic pull tabs won.

e. In addition to the one set of master electronic accounting meters required above, each individual game available for play must have the prize structure meters "credits played" and "prizes won" in dollars and cents.

34. An electronic pull tab device may not have software that determines the outcome of any electronic pull tab game. All application software must be owned or licensed by the manufacturer. All game outcomes are determined at the time of deal creation by the electronic pull tab operating system software as outlined within this section of the administrative rules.

a. Electronic pull tab game software must be developed by the manufacturer if the manufacturer designs the electronic pull tab system, database, user interface, the program architecture, and associated software.

b. Any application software to be used by the manufacturer must be owned wholly or properly licensed from an application software provider and evidence of the license must be provided to the attorney general.

c. The electronic pull tab system manufacturer must provide documentation establishing ownership of the intellectual property rights to the entire game application software and system to the attorney general.

35. The electronic pull tab operating system must be dedicated primarily to functions related to the creation of electronic pull tabs and their creation, randomization, storage, and transmittal to the electronic pull tab devices. It also must be capable of generating the data necessary to provide the reports required within this section. The operating system must be operationally independent from the electronic pull tab device. The electronic pull tab operating system, logic components, and site server must be in a locked, secure enclosure with key controls in place.

36. The electronic pull tab operating system must provide a secure physical and electronic means, for securing the electronic deals against alteration, tampering, or unauthorized access. The electronic pull tab operating system must provide a means for terminating the electronic pull tab game if unopened pull tab information has been accessed or at the discretion of the attorney general.

37. Progressives, cashless gaming, bonus plays, promotions, or other gaming management or marketing functions are not allowed. An extended play feature may be used if there is no additional consideration required from the player and the features do not alter the predetermined prize to be awarded for the pull tab ticket. No player skill may be required with the extended play feature.

38. As used in this section, unless the context requires a different meaning:

a. "Card position" means the first electronic pull tab dealt, second electronic pull tab dealt in sequential order.

b. "Number position" means the first number drawn in sequential order.

39. Any random number generation used in connection with the central computer system must be by use of a microprocessor and random number generation program that meets the following random selection tests:

a. Chi-square analysis. Each card, symbol, number, or position which is wholly or partially determinative of the outcome of the game satisfies the ninety-nine percent confidence limit using the standard chi-square analysis.

b. Runs test. Each card, symbol, number, or position does not, as a significant statistic, produce predictable patterns of game elements or occurrences. Each card symbol, number, or position will be considered random if it meets the ninety-nine percent confidence level with regard to the "runs test" or any generally accepted pattern testing statistic.

c. Correlation analysis. Each card, symbol, number, or position is independently chosen without regard to any other card, symbol, number, or position drawn within that game play. Each card, symbol, number, or position is considered random if it meets the ninety-nine percent confidence level using standard correlation analysis.

d. Serial correlation analysis. Each card, symbol, number, or position is independently chosen without reference to the same card, number, or position in the previous game. Each card, number, or position is considered random if it meets the ninety-nine percent confidence level using standard serial correlation analysis.

40. The central computer system may not permit the alteration of any accounting or significant event log information that was properly communicated from the electronic pull tab device without supervised access controls. If financial data is changed, an automated audit log must be capable of being produced to document:

a. Data element altered;

b. Data element value prior to alteration;

c. Data element value after alteration;

d. Time and date of alteration; and

e. Personnel that performed alteration (user login).

41. The electronic pull tab operating system must have a medium for securely storing electronic pull tab deals on the site server which must be mirrored in real time by a backup medium. The manufacturer's central computer system server also must provide a means for storing duplicates of the electronic deals, already transmitted to the electronic pull tab devices site

server, so as to reflect, on an ongoing basis, changes in the transmitted electronic deals as they occur.

42. All storage must be through an error checking, nonvolatile physical medium, or an equivalent architectural implementation, so if the primary storage medium fails, the functions of the central computer system and the process of auditing those functions can continue with no critical data loss.

43. The database must be stored on redundant media so that no single failure of any portion of the system would cause the loss or corruption of data.

44. In the event of a catastrophic failure when the central computer system cannot be restarted in any other way, it must be possible to reload the central computer system from the last viable backup point and fully recover the contents of that backup, recommended to consist of at least the following information:

    a. Significant events;

    b. Accounting information;

    c. Auditing information; and

    d. Specific site information, such as employee files with access levels.

45. Connections between all components of the central computer system only must be through the use of secure communication protocols that are designed to prevent unauthorized access or tampering, employing advanced encryption standards or equivalent encryption with changeable seeds or algorithms. More specifically, secure connections and encryption must be utilized between the interface component and the system. This same level of security is not required between the electronic pull tab device and the interface component when they are housed within the same physical cabinet or enclosure.

46. All data communication must incorporate an error detection and correction scheme to ensure the data is transmitted and received accurately.

47. The system must be capable of detection and displaying certain conditions. These conditions must be recorded on an error log that may be displayed or printed on demand and must archive the conditions for a minimum of ninety days. The conditions include:

    a. Power reset or failure of an electronic pull tab device or any component of the online data system; and

    b. Communication loss between an electronic pull tab device and any component of the online data system.

48. A firewall or equivalent hardware device configured to block all inbound and outbound traffic that has not been expressly permitted and is not required for continued use of the electronic pull tab operating system must exist between the electronic pull tab operating system and any external point of access.

49. The minimum width for encryption keys is one hundred twelve bits for symmetric algorithms and one thousand twenty-four bits for public keys.

    a. There must be a secure method implemented for changing the current encryption key set. It is not acceptable to only use the current key set to "encrypt" the next set.

    b. There must be a secure method in place for the storage of any encryption keys. Encryption keys must not be stored without being encrypted themselves.

50. The following significant events, if applicable, must be collected from the electronic pull tab device and communicated to the central computer system for storage and a report of the occurrence of the significant event must be made available upon request:

a. Power resets or power failure;

b. Communication loss between an electronic pull tab device and any component of the electronic pull tab site operating system;

c. Door openings;

d. Currency validator errors;

(1) Stacker full; and

(2) Currency jam.

e. Printer errors;

(1) Printer empty or paper low; and

(2) Printer disconnect or failure.

f. Corruption of the electronic pull tab device RAM or program storage device; and

g. Any other significant events as defined by the protocol employed by the electronic pull tab site operating system.

51. The system must not permit the alteration of any accounting or event log information that was properly communicated from the electronic pull tab device unless documented, secure access controls are provided.

52. The operating system of the electronic pull tab system must provide comprehensive password security or other secure means of ensuring data integrity and enforcing user permissions for all system components through the following means:

a. All programs and data files must be accessible only via the entry of a password that will be known only to authorized personnel;

b. The electronic pull tab operating system must have multiple security access levels to control and restrict different classes;

c. The electronic pull tab operating system access accounts must be unique when assigned to the authorized personnel and shared accounts amongst authorized personnel must not be allowed;

d. The storage of passwords and personal identification numbers must be in an encrypted, nonreversible form; and

e. A program or report must be available which lists all registered users on the electronic pull tab operating system, including their privilege level. This report must include all user accounts that have access to system configurations, data, or other sensitive areas.

53. All components of an electronic pull tab operating system that allows access to users, other than end-users for game play, must have a password signon with two-level codes comprising the personal identification code and a personal password:

a. The personal identification code must have a length of at least six ASCII characters; and

b. The personal password must have a minimum length of six alphanumeric characters, which should include at least one nonalphabetic character.

54. An electronic pull tab operating system must have the capability to control potential data corruption that can be created by multiple simultaneous log on by system management personnel.

a. An electronic pull tab operating system must specify which of the access levels allow for multiple simultaneous sign on by different users and which of the access levels do not allow for multiple sign on, and if multiple sign on are possible, what restrictions, if any, exist; or

b. If an electronic pull tab operating system does not provide adequate control, a comprehensive procedural control document must be drafted for the attorney general's review and approval.

55. Where the site operating system or components are linked with one another in a local network for function sharing or other purposes, communication protocols must be used which ensure erroneous data or signals will not adversely affect the operations of any such system or components.

56. Dedicated and protected network connections prohibiting unauthorized access, may allow two or more central computer systems to share information. Deal details and other information prohibited from being viewed, as outlined in other sections of these rules, must not be available or transmitted between the connected systems or facilities.

57. The central computer system may be used to record the data used to verify game play and to configure and perform security checks on electronic pull tab devices provided such functions do not affect the security, integrity, or outcome of such games.

58. Central computer system software components and modules must be verifiable by a secure means at the system level denoting program identification and version. The central computer system must have the ability to allow for an independent integrity check of the components and modules from an outside source and is required for all control programs that may affect the integrity of the central computer system. This must be accomplished by being authenticated by a third-party device, which may be embedded within the central computer system software or having an interface port for a third-party device to authenticate the media. This integrity check will provide a means for field verification of the central computer system components/modules to identify and validate the programs and files. The test laboratory, prior to system approval, must approve the integrity check method.

59. Following the initiation of an nonvolatile memory reset procedure, the game program must execute a routine, which initializes all bits in critical nonvolatile memory to the default state. All memory locations intended to be cleared as per the nonvolatile memory clear process must be fully reset in all cases. For electronic pull tab devices that allow for partial nonvolatile memory clears, the methodology in doing so must be accurate.

60. The default game display immediately after an nonvolatile memory reset must not be the advertised top prize on any selectable line. The default game display, upon entering game play mode, must also not be the advertised top prize.

61. It must not be possible to change a configuration setting that causes an obstruction to the electronic accounting meters without a nonvolatile memory clear. Notwithstanding, a change to the denomination must be performed by a secure means, which includes access to the locked logic compartment or other secure method provided that the method can be controlled by the attorney general.

62. Critical memory is used to store all data that is considered vital to the continued operation of the electronic pull tab device. This includes:

a. All electronic meters required in subsection 33 of section 99-01.3-16-09.6, including last currency data and power up and door open metering;

b. Current credits;

c. Electronic pull tab device game configuration data;

d. Information pertaining to the last ten plays with the play outcome;

e. Software state;

f. Any prize structure configuration information residing in memory; and

g. A log of the last one hundred significant events.

63. Critical memory storage must be maintained by a methodology that enables errors to be identified. This methodology may involve signatures, checksums, partial checksums, multiple copies, timestamps, or effective use of validity codes, or any combination.

64. Comprehensive checks of critical memory must be made following game initiation but prior to display of game outcome to the player. Critical memory must be continuously monitored for corruption. The methodology must detect failures with an extremely high level of accuracy.

65. An unrecoverable corruption of critical memory must result in an error. The memory error should not be cleared automatically and should result in a tilt condition, which facilitates the identification of the error and causes the electronic pull tab device to cease further function. The critical memory error should also cause any communication external to the electronic pull tab device to immediately cease. An unrecoverable critical memory error must require a full nonvolatile memory clear performed by a licensed distributor.

66. Nonvolatile memory space that is not critical to the security of the electronic pull tab device is not required to be validated.

67. Program storage device means the media or an electronic device that contains the critical control program components. Device types include EPROMs, compact flash cards, optical disks, hard drives, solid state drives, USB drives, etc. All program storage devices must:

a. Be housed within a fully enclosed and locked logic compartment;

b. Be clearly marked with sufficient information to identify the software and revision level of the information stored in the device. In the case of media types on which multiple programs may reside it is acceptable to display this information via the attendant menu;

c. Validate themselves during each processor reset;

d. Validate themselves the first time they are used; and

e. CD-ROM, DVD, and other optical disk-based program storage must:

(1) Not be a rewritable disk; and

(2) The "session" must be closed to prevent any further writing.

68. Electronic pull tab devices that have control programs residing in one or more PROMs must employ a mechanism to verify control programs and data. The mechanism must use a cyclic redundancy check of at least sixteen bits.

69. Non-EPROM program storage must meet the following rules:

a. The software must provide a mechanism for the detection of unauthorized and corrupt software elements, upon any access, and subsequently prevent the execution or usage of those elements by the electronic pull tab device. The mechanism must employ a hashing algorithm which produces a message digest output of at least one hundred twenty-eight bits;

b. In the event of a failed authentication, after the electronic pull tab device has been powered up, the terminal immediately should enter an error condition and display an appropriate error. This error must require operator intervention to clear and must not clear until the data authenticates properly, following the operator intervention or the media is replaced or corrected, and the electronic pull tab device's memory is cleared.

70. Alterable media must meet the following and additional rules:

a. Employ a mechanism that tests unused or unallocated areas of the alterable media or unintended programs or data and tests the structure of the media for integrity. The mechanism must prevent further play of the electronic pull tab device if unexpected data or structural inconsistencies are found;

b. Employ a mechanism for keeping a record any time a control program component is added, removed, or altered on any alterable media. The record must contain a minimum of the last ten modifications to the media and each record must contain that date and time of the action, identification of the component that affected the reason for the modification, and any pertinent validation information.

71. Program storage devices that do not have the ability to be modified while installed in the electronic pull tab device during normal operation must be marked clearly with sufficient information to identify the software and revision level of the information stored in the devices.

History: Effective July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-10. Testing, approval, and recall.

1. A manufacturer of a pull tab dispensing device, fifty-fifty raffle system, site system with bingo card-marking devices, ~~or~~ electronic quick shot bingo site operating system with card-marking devices, or electronic pull tab device with operating system, and related equipment shall not sell or provide a device or system to a distributor unless a model of the device or system has been approved by the attorney general.

2. A manufacturer of a dispensing device shall provide a device model, a copy of its 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. A manufacturer of a fifty-fifty raffle system, site system with bingo card-marking devices, electronic quick shot bingo site operating system with card-marking devices, electronic pull tab device with operating system, and related equipment shall provide a fifty-fifty raffle system and sales unit, site system with bingo card-marking devices, electronic quick shot bingo site operating system with card-marking devices, electronic pull tab device with operating system, technical and operations manual, proprietary operating software source and object code computer programs, random number generator, and other information requested by the attorney general. A manufacturer of a currency validator for pull tab dispensing devices and electronic pull tab devices or credit

redemption device for pull tab dispensing devices shall provide a copy of the source and object code computer programs and other information requested by the attorney general. A manufacturer shall provide a copy of letters of approval and test reports of the dispensing device, fifty-fifty raffle system, site system with bingo card-marking devices, electronic quick shot bingo site operating system with card-marking devices, electronic pull tab device with operating system, and related equipment, or currency validator from other states, federal jurisdictions, or independent testing laboratories.

3. The attorney general may require a manufacturer of a dispensing device, fifty-fifty raffle system, site system with bingo card-marking devices, electronic quick shot bingo site operating system with card-marking devices, electronic pull tab device with operating system, and related equipment, or currency validator to transport a working model, and the information required by subsection 2 to the attorney general or designee for analysis, testing, and evaluation. A manufacturer shall pay all the costs and provide special equipment for the testing. The attorney general may require a manufacturer to pay the estimated costs, in advance. After the analysis, testing, and evaluation is done, the designee shall provide the results to the attorney general. An overpayment of costs must be refunded to a manufacturer or the manufacturer shall pay any underpayment of costs. The attorney general shall provide the manufacturer with the results. Before approving a device's model, site system with bingo card-marking devices, electronic quick shot bingo site operating system with card-marking devices, electronic pull tab device with operating system, and related equipment, the attorney general may require a trial period.

4. If a manufacturer of a dispensing device, fifty-fifty raffle system, site system with bingo card-marking devices, ~~or~~ electronic quick shot bingo site operating system with card-marking devices, electronic pull tab device with operating system, and related equipment, knows or determines that a model of a device or system is defective or can be manipulated, the manufacturer shall immediately notify the attorney general and cease selling the device or system. The attorney general may require the manufacturer to recall or modify the device or system. Upon notification, a manufacturer shall initiate compliance with a recall or modification at the manufacturer's expense.

5. A fifty-fifty raffle system ~~and~~, electronic quick shot bingo site operating system with card-marking devices, electronic pull tab device with operating system, and related equipment must have the ability to allow for an independent integrity check of the device's software from an outside source and is required for all control programs that may affect the integrity of the game.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-11. Sales invoice.

1. A manufacturer may not sell or provide to or accept from a distributor deals of pull tabs, paper bingo cards, fifty-fifty raffle system, site system with bingo card-marking devices, quick shot bingo card-marking devices and related equipment, or pull tab dispensing devices without recording the transaction on a sales or credit invoice. The invoice must include:

   a. License number, business name, and address of the distributor;

   b. Business name and address to which the gaming equipment is shipped;

   c. Invoice number and date;

d. Date shipped;

e. Indication for a credit invoice;

f. Quantity of deals of pull tabs and paper bingo cards;

g. Description of each deal of pull tabs and bingo cards and paper bingo cards sold, including the name of the 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;

h. For paper bingo cards, quantity, primary color, type of collated booklet, serial number, size of series, and number of faces on a card;

i. Name, model, and serial number of a pull tab dispensing device;

j. Name, model, and serial number of a site system for bingo card-marking devices and number of bingo card-marking devices provided;

k. Name, model, serial number, and control ~~programs~~program code of an electronic quick shot bingo site operating system and number of card-marking devices provided;

l. For electronic bingo cards, quantity of bingo cards played; and

m. Name, model, serial number, and control ~~programs~~program code of a fifty-fifty raffle system.

2. A manufacturer shall file a copy of each sales invoice issued to an organization on behalf of a distributor for rent of a bingo card-marking device, by the fifth business day following the month of the transaction.

History: Effective May 1, 1998; amended effective July 1, 2000; October 1, 2006; July 1, 2010; July 1, 2012; April 1, 2016; July 1, 2018.
General Authority: NDCC 53-06.1-01.1
Law Implemented: NDCC 53-06.1-01.1

TITLE 105

RESPIRATORY CARE, NORTH DAKOTA STATE BOARD OF

JULY 2018

CHAPTER 105-02-01

105-02-01-01. Initial licensure application.

An application for a license to practice respiratory care must be made to the state board of respiratory care on forms approved by the board. The application must contain such information as the board may reasonably require.

1. Each application for a license must be accompanied by:

   a. The prescribed fee.

   b. An official transcript, certificate, or diploma verifying completion of an academic program in respiratory care recognized by the commission on ~~allied health, education, and~~ accreditation for respiratory care or its successor.

   c. A photocopy of original national board of respiratory care registry or certification certificate.

2. All applications must be signed by the applicant and notarized.

3. ~~Any new~~An applicant who has not ~~worked~~maintained a license as a registered respiratory therapist or certified respiratory therapist for three years will require entry-level recredentialing.

4. The board may request such additional information or clarification of information provided in the application as it deems necessary.

History: Effective September 1, 1996; amended effective January 1, 2006; July 1, 2018.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-02-01-02. Licensure renewal.

Licenses are renewable annually.

1. Applications for renewal of license will be mailed by the board on or before December first to all licenseholders. Fees are payable to the board on or before December thirty-first of the year preceding the renewal year.

2. An application for renewal of license must be signed by the applicant ~~and notarized~~.

3. License fees are considered delinquent and a late charge is assessed if the renewal application is not processed online or postmarked on or before December thirty-first of the year preceding the renewal year.

4. A license is considered as a renewal if renewal is sought within three years from the date of the last issuance. After three years any application is considered a new application.

5. Renewal of license must be mailed by January twenty-fourth of the renewal year if the renewal request is complete and postmarked on or before December thirty-first.

6. All late renewal applications will be audited and proof of continuing education units is required.

History: Effective September 1, 1996; amended effective July 1, 2018.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-02-01-03. Fees.

The board has adopted the following fee payment schedule:

1. Initial license fee and license fee for renewal are:

   Registered respiratory therapist - ~~$60.00~~$80.00

   Certified respiratory therapist - ~~$60.00~~$80.00

   ~~Temporary respiratory therapist - $60.00~~

2. Late fees in the amount of ~~ten~~twenty-five dollars must be charged for all applications received by the board which are postmarked after December thirty-first of the year prior to the year of renewal.

3. Respiratory therapists who initially become licensed after November first of the year are exempt from licensure renewal for a period of one year. There is no proration of fees.

History: Effective September 1, 1996; amended effective January 1, 2006; July 1, 2018.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-02-01-04. Continuing education.

To renew a license, a person must present proof of having attended or acquired at least ten clock-hours of continuing education approved by the board. If any licensee allows the licensee's license to lapse for a period of more than one year, the licensee must be required to submit proof of attendance or acquisition of at least ten clock-hours of continuing education for each year that the license has lapsed up to a period of three years.

Continuing education for licensure renewal must be completed in the calendar year prior to the year for which licensure is sought. Under extraordinary circumstances, the board may consider a request for continuing education hours accrued in the same calendar year.

Continuing education courses must relate to or increase the professional competence of the attendee. This determination will be made by the board through approval of requested courses. The board has the authority to accept programs sponsored by a local, state, regional, national, international, scientific, or professional organization appropriate to provide continuing education (i.e., American association of respiratory care (AARC), North Dakota society of respiratory care (NDSRC), American medical association (AMA), American lung association (ALA), American heart association (AHA), American academy of sleep medicine (AASM), ~~association of polysomnographic technologists~~

~~(APT)~~American association of sleep technologists (AAST), board of registered polysomnographic technologists (BRPT), American society of electroneurodiagnostic technologists (ASET), etc.).

History: Effective September 1, 1996; amended effective January 1, 2006; July 1, 2018.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

105-02-01-06. Qualified applicant.

~~1.~~ In licensing a registered respiratory therapist or a certified respiratory therapist, "qualified" means trained and possessing the credential issued by the recognized testing or certification body of the profession.

~~2. In licensing a temporary respiratory therapist, the applicant will be deemed qualified upon meeting the eligibility requirements of the CRTT entry-level examination as required and administered by the national board for respiratory care or its successor organization.~~

History: Effective September 1, 1996; amended effective January 1, 2006; July 1, 2018.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

CHAPTER 105-03-02

105-03-02-01. Code of ethics.

The board has adopted and incorporated into these rules by reference the American association for respiratory care's statement of ethics and professional conduct as amended in ~~1994~~2015.

History: Effective September 1, 1996; amended effective July 1, 2018.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03

CHAPTER 105-04-01

105-04-01-01. Initial licensure application.

An application for a license to practice polysomnography must be made to the state board of respiratory care on forms approved by the board. The application must contain such information as the board may reasonably require.

1. Each application for a license must be accompanied by:

   a. The prescribed fee.

   b. A photocopy of the certificate from the board of registered polysomnographic technologists, or other nationally accredited body approved by the board.

2. All applications must be signed by the applicant and notarized.

3. An applicant who has not maintained a license as a registered polysomnographic technologist for three years will require entry-level recredentialing.

4. The board may request such additional information or clarification of information provided in the application as it deems necessary.

History: Effective January 1, 2006; amended effective July 1, 2018.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03(4), 43-42-04.1

105-04-01-02. Licensure renewal.

Licenses are renewable annually.

1. Applications for renewal of license will be mailed by the board on or before December first to all licenseholders. Fees are payable to the board on or before December thirty-first of the year preceding the renewal year.

2. An application for renewal of license must be signed by the applicant ~~and notarized~~.

3. License fees are considered delinquent and a late charge is assessed if the renewal application is not processed online or postmarked on or before December thirty-first of the year preceding the renewal year.

4. A license is considered as a renewal if renewal is sought within three years from the date of the last issuance. After three years any application is considered a new application.

5. Renewal of license must be mailed by January twenty-fourth of the renewal year if the renewal request is complete and postmarked on or before December thirty-first.

6. All late renewal applications will be audited and proof of continuing education units is required.

History: Effective January 1, 2006; amended effective July 1, 2018.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03(4)

105-04-01-03. Fees.

The board has adopted the following fee payment schedule:

1. Initial license fee and license fee for renewal are:

Registered polysomnographic technologist - ~~$60.00~~$80.00

Registered polysomnographic technologist - registered respiratory therapist - ~~$60.00~~$80.00

Registered polysomnographic technologist - certified respiratory therapist - ~~$60.00~~$80.00

2. Late fees in the amount of ~~ten~~twenty-five dollars must be charged for all applications received by the board which are postmarked after December thirty-first of the year prior to the year of renewal.

3. Registered polysomnographic technologists who initially become licensed after November first of the year are exempt from licensure renewal for a period of one year. There is no proration of fees.

History: Effective January 1, 2006; amended effective July 1, 2018.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03(4)

105-04-01-04. Continuing education.

1. To renew a license, a person must present proof of having attended or acquired at least ten clock-hours of continuing education approved by the board. If any licensee allows the licensee's license to lapse for a period of more than one year, the licensee must be required to submit proof of attendance or acquisition of at least ten clock-hours of continuing education for each year that the license has lapsed up to a period of three years.

2. Continuing education for licensure renewal must be completed in the calendar year prior to the year for which licensure is sought. Under extraordinary circumstances, the board may consider a request for continuing education hours accrued in the same calendar year.

3. Continuing education courses must relate to or increase the professional competence of the attendee. This determination will be made by the board through approval of requested courses. The board has the authority to accept programs sponsored by a local, state, regional, national, international, scientific, or professional organization appropriate to provide continuing education (i.e., AARC, AMA, ALA, AHA, AASM, ~~APT~~AAST, BRPT, ASET, etc.).

History: Effective January 1, 2006; amended effective July 1, 2018.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03(4), 43-42-04.1

105-05-01-03. Clinical work experience.

1. A person enrolled in a bona fide polysomnographic training program is not prohibited from performing those duties essential for completion of a student's clinical service; provided, that the duties are performed under the direct supervision or direction of a licensed health care professional trained in sleep medicine or the procedure. The supervisor or director is responsible to the board for the actions of the trainee.

2. A trainee is an individual who has completed a minimum of one year of postsecondary education in a health-related field, or its equivalent as approved by the board, and works under the direct supervision of a licensed health care professional trained in sleep medicine. A student or trainee must be identified as such.

3. Individuals on the credentialing track are exempt from the requirement to have the RPSGT credential for a period not to exceed thirty-six months starting from the first day of training, provided they are practicing with appropriate levels of supervision, in accordance with the published job descriptions sanctioned by the ~~APT~~AAST, BRPT, AASM, and ASET, or substantially similar written standards developed by the training program.

History: Effective January 1, 2006; amended effective July 1, 2018.
General Authority: NDCC 43-42-03
Law Implemented: NDCC 43-42-03(4), 43-42-04.1

TITLE 109

PEACE OFFICER STANDARDS AND TRAINING BOARD

JULY 2018

ARTICLE 109-02
PEACE OFFICER STANDARDS

Chapter	
109-02-01	General Provisions
109-02-02	Licensing and Training Requirements
109-02-03	Minimum Standards of Training Prior to Carrying a Weapon
109-02-04	Instructor and Training Course Certification
109-02-05	Peace Officer Code of Conduct and Oath
109-02-06	Confidential Informants

CHAPTER 109-02-01

109-02-01-01. Definitions.

The terms used throughout this article have the same meaning as in the North Dakota Century Code except:

1. "Agency" means a criminal justice agency, or an agency of the state of North Dakota or one of its political subdivisions, authorized to employ licensed peace officers. For purposes of this title, an agency includes the North Dakota stockmen's association and a railroad that employs licensed peace officers.

2. "Basic full-time peace officer training course" means a board-certified entrance-level training course based on performance objectives essential for full-time licensed peace officers in the state of North Dakota.

3. "Basic part-time peace officer training course" means a board-certified entrance-level training course based on performance objectives essential for part-time licensed peace officers in the state of North Dakota.

4. "Certified instructor" means an instructor certified by the board to instruct law enforcement or basic correctional officer training courses.

5. "Certified shooting course" means a shooting course that meets the requirements of these rules.

6. "Certified training" means training approved by the board.

7. "College credits" means credits earned for studies satisfactorily completed through an accredited institution of higher learning in a program leading to an academic degree.

8. "Controlling agent" means the peace officer who is the main point of contact with the confidential informant for the controlled buy, controlled sale, or surreptitious recording.

9. "Crime of violence" means any violation of law where a person purposely or knowingly causes or threatens to cause death or physical bodily injury to another person or persons.

10. "Criminal justice agency" means a unit of government of the state of North Dakota or one of its political subdivisions charged by law with criminal law enforcement duties.

~~9.~~11. "Duty equipment" means the equipment issued or approved by the peace officer's employing agency and normally carried by a peace officer in the performance of the peace officer's duties.

~~10.~~12. "Duty weapon" means the sidearm issued or approved by the peace officer's employing agency and normally carried by the peace officer in the performance of the peace officer's duties.

~~11.~~13. "Full-time peace officer" means a full-time salaried public servant employed by an agency of the state of North Dakota or one of its political subdivisions, or a peace officer employed by the North Dakota stockmen's association or a railroad, to enforce the law or to conduct or engage in investigations or prosecutions for violations of law.

~~12.~~14. "Law enforcement training academy" means the highway patrol law enforcement training center.

~~13.~~15. "License requirement" means any term or condition established by the board that must be met before the board may issue, renew, or reinstate a peace officer's license.

~~14.~~16. "Limited license" means a conditional license granted by the board to an individual who has been hired or appointed by an agency but who has not completed a basic full-time peace officer training course and has not successfully passed the licensing examination.

~~15.~~17. "Moral turpitude" means conduct that:

a. Involves falsification or fraud;

b. Involves harm or injury directed to another individual or entity or another individual's or entity's property; or

c. Is in violation of North Dakota Century Code chapter 12.1-20, 12.1-27.1, or 12.1-27.2 or the equivalent laws of another state or the federal government.

~~16.~~18. "Part-time peace officer" means a public servant who has a part-time peace officer license and is employed or appointed by a criminal justice agency of the state of North Dakota or one of its political subdivisions to enforce the law or to conduct or engage in investigations or prosecutions for violations of law within the scope of the part-time peace officer's training.

~~17.~~19. "Peace officer" means a salaried public servant employed by a criminal justice agency of the state of North Dakota or one of its political subdivisions, or a peace officer employed by the North Dakota stockmen's association or a railroad, to enforce the law or to conduct or engage in investigations or prosecutions for violations of law.

~~18.~~20. "Peace officer license" means a license issued by the board.

~~19.~~21. "School" means a facility, agency, or academy that conducts board-certified basic, advanced, and specialized peace officer training courses or basic correctional officer training courses.

~~20.~~22. "Sidearm" means a handgun, including a semiautomatic handgun or revolver, carried by a peace officer as the officer's authorized duty weapon.

~~21.~~23. "Sidearm qualification" means the test a peace officer must complete on a certified shooting course with the peace officer's duty weapon.

~~22.~~24. "Training provider" means an individual, school, facility, or academy that conducts certified basic, advanced, specialized peace officer training courses, or basic correctional officer training courses.

~~23.~~25. "Weapon" includes a handgun, shotgun, and rifle.

History: Effective October 1, 2004; amended effective July 1, 2006; April 1, 2014; July 1, 2018.
General Authority: NDCC 12-63-02.1(7), 12-63-04(2)(d)
Law Implemented: NDCC 12-44.1-01(10), 12-44.1-04(4), 12-63-02.1, 12-63-04

CHAPTER 109-02-06
CONFIDENTIAL INFORMANTS

Section
109-02-06-01 Confidential Informants

109-02-06-01. Confidential informants.

1. A peace officer utilizing a confidential informant should take reasonable steps to ensure the safety of the confidential informant and shall document that relationship using a written informant agreement agreed to by the parties prior to any controlled buy, controlled sale, or surreptitious recording taking place.

2. A peace officer shall review the confidential informant agreement with each confidential informant. Each informant agreement must be in writing on a form approved by the board and must be signed by the confidential informant and the controlling agent who must be a peace officer. The peace officer shall maintain and control access to the written informant agreement.

3. A peace officer shall keep all confidential informant records secret with access limited to persons with a need to know or subject to a court order for disclosure.

4. When a controlling agent gets removed from an investigation using a confidential informant, that peace officer shall document this information on the informant agreement and notify the confidential informant. If the investigation continues, the peace officer assuming control of the confidential informant shall enter a new informant agreement with the confidential informant.

5. A peace officer who is acting as the controlling agent for a confidential informant shall request a criminal history report on all known target offenders of the investigation and verbally report the propensity for crimes of violence for each target offender to the confidential informant.

6. The controlling agent shall provide an operational/safety plan for each controlled buy, controlled sale, or in-person surreptitious recording attempted by a confidential informant.

7. A peace officer shall inform a paid confidential informant in writing of the compensation amounts prior to any controlled buy, controlled sale, or surreptitious recording taking place.

8. A peace officer may not have any sexual contact or sexual relationship with any confidential informant.

9. A peace officer shall communicate to the confidential informant, if possible, when the confidential informant is deactivated. A peace officer shall enter a dated, written notation on the informant agreement when the confidential informant is deactivated.

10. A peace officer may not violate North Dakota Century Code chapter 29-29.5.

History: Effective July 1, 2018.
General Authority: NDCC 12-63-04
Law Implemented: NDCC 12-63-04