

NORTH DAKOTA ADMINISTRATIVE CODE

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

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TITLE 4
MANAGEMENT AND BUDGET, OFFICE OF

JULY 2024

CHAPTER 4-07-37

4-07-37-02. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapters 54-06, 54-44.3, and 54-52.4, except:

1. "Annual leave" means an approved absence from work with pay, as defined in section 4-07-12-02.
- ~~2. "Eligible employee" means a permanent state employee ~~with over six months continuous service with the state~~. It does not include employees ~~in probationary status or employees on~~ temporary or other limited term appointments.~~
- ~~2. "Annual leave" means an approved absence from work with pay, as defined in section 4-07-12-02.~~
- ~~3. "Sick leave" means an approved absence from work with pay, for use in accordance with section 4-07-13-07.~~
- 4.3. "Eligible family member" means the employee's spouse, parent (natural, adoptive, foster, and stepparent), child (natural, adoptive, foster, and stepchild), or any other family or household member who is financially or legally dependent upon the employee or who resides with the employee for the purpose of the employee providing care to the family member.
- ~~5.4. "Serious" or "extraordinary" means severe, extreme, or life threatening. These terms do not include conditions associated with normal pregnancy.~~
5. "Sick leave" means an approved absence from work with pay, for use in accordance with section 4-07-13-07.

History: Effective July 1, 2022; amended effective July 1, 2024.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-06-14.7

CHAPTER 4-07-38 FAMILY MEDICAL LEAVE

Section

<u>4-07-38-01</u>	<u>Scope of Chapter</u>
<u>4-07-38-02</u>	<u>Definitions</u>
<u>4-07-38-03</u>	<u>Uses of Family Medical Leave</u>

4-07-38-01. Scope of chapter.

This chapter applies to all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective July 1, 2024.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-52.4

4-07-38-02. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapters 54-06, and 54-44.3, except:

1. "Employee" means a state employee, who has been employed by the employer for at least twelve months, and who has worked at least one thousand two hundred fifty hours for the employer over the previous twelve months.
2. "Employer" means the state but does not include any political subdivision of the state.
3. "Intermittently" means leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks.
4. "Rolling twelve-month period" means the twelve-month period measured backward from the date an employee uses any family medical leave.
5. "Serious health condition" means a disabling physical or mental illness, injury, impairment, or condition involving:
 - a. Inpatient care in a hospital, long-term care facility, or hospice program; or
 - b. Outpatient care that requires continuing treatment by a health care provider.
6. "Spouse" means an employee's husband or wife.

History: Effective July 1, 2024.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-52.4

4-07-38-03. Uses of family medical leave.

1. An employee may request family medical leave of absence consistent with North Dakota Century Code section 54-52.4-02.
2. An employee may take family medical leave, for any combination of reasons, in any rolling twelve-month period for not more than twelve workweeks, except when leave is under subdivision f of subsection 1 of North Dakota Century Code section 54-52.4-02, the employee

is limited to a combined twenty-six workweeks of leave in any rolling twelve-month period and is limited to once per service member or veteran per serious injury or illness. When medically necessary, employees may take family medical leave intermittently or on a reduced work schedule for their own serious health condition, the serious health condition of a family member, or to care for a covered service member with a serious injury or illness.

3. An employee and spouse who work for the same employer are entitled to a combined total of twelve weeks of family medical leave if taken under subdivisions a through e of subsection 1 of North Dakota Century Code section 54-52.4-02 and a combined total of twenty-six weeks of family medical leave if taken under subdivision f of subsection 1 of North Dakota Century Code section 54-52.4-02.

4. Family medical leave runs concurrently with all other available leave including paid or donated leave.

5. During a period that an employee takes family medical leave, the employer shall continue any group health insurance coverage for its employees and their dependents available to the employee under the conditions that applied immediately before the family medical leave began.

History: Effective July 1, 2024.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-52.4

TITLE 7
AGRICULTURE COMMISSIONER

JULY 2024

CHAPTER 7-03.2-02

7-03.2-02-03. Training.

All licensed samplers and milk haulers must attend a training session at least once every two years. ~~The request for training is the responsibility of the sampler or milk hauler.~~ Training must be provided by the commissioner.

History: Effective October 1, 2009; amended effective July 1, 2024.

General Authority: NDCC 4.1-25-50

Law Implemented: NDCC 4.1-25-22, 4.1-25-35

CHAPTER 7-03.2-03

7-03.2-03-01. General requirements.

A tester analyzes milk for components, quality, microbiological, or drug residues for the purposes of determining the value or grade of the milk. All tests performed by testers must conform with the requirements in the standard methods. The results of such tests must be retained for one year and must be available to the commissioner upon request.

History: Effective October 1, 2009; amended effective July 1, 2024.

General Authority: NDCC 4.1-25-50

Law Implemented: NDCC 4.1-25-22, 4.1-25-26, 4.1-25-34

7-03.2-03-07. Sampling equipment.

All sampling equipment must comply with requirements in the standard methods. Certified thermometers must be used to take samples. Certified thermometers must be accurate within two degrees Fahrenheit [~~0.55-degree~~ 1.11 degrees Celsius]. Their accuracy must be checked once during a six-month period ~~at a calibration temperature of forty-two to forty-five degrees Fahrenheit [5.5 degrees to 7.22 degrees Celsius]. The thermometer must be calibrated by a certified mercury actuated thermometer.~~ Certification must be obtained ~~at a certified laboratory~~ by a trained analyst approved by the commissioner. The analyst must maintain a log of the results of each thermometer certified. The log must contain the same information recorded on the thermometer and must show the certification history of all thermometers for which the analyst is responsible for one year. The following must be listed on certified thermometers:

1. Initials of the person calibrating the thermometer.
2. The date of calibration.
3. The date the calibration expires.
4. The thermometer owner's name or the thermometer number.

History: Effective October 1, 2009; amended effective July 1, 2024.

General Authority: NDCC 4.1-25-50

Law Implemented: NDCC 4.1-25-26

7-03.2-03-11. Adulterants.

1. Drug testing.

- a. Raw milk. Prior to processing, the processor must test all bulk milk pickup tankers for the presence of beta lactam drug residues and for other residues as determined necessary by the commissioner. Test methods will be those approved by the association of official analytical chemists or the food and drug administration. A positive test on the commingled sample requires confirmation testing for drug residues of all individual producer samples making up the bulk pickup tanker. Bulk milk tankers testing positive must be reported to the commissioner immediately. This report must include the tests used, volume of milk contaminated, how the milk was disposed of, and which producer caused the positive residue. All milk sample residue results must be recorded and retained for examination by the commissioner for twelve months.
- b. Bulk load rejected. If a bulk load of milk tests positive for a drug residue, the processor shall reject the entire bulk load. The rejected bulk load may not be used for human food.

- c. Processor's loss - investigation. If a processor sustains a monetary loss because a bulk load of milk is rejected, the processor may file a complaint with the commissioner. The commissioner may investigate the complaint and may issue a report on the amount of monetary loss suffered by the processor and on the responsibility for the rejected load and for the processor's monetary loss.
 - d. Followup testing. If a bulk load of milk tests positive for drug residue, the processor shall immediately notify the commissioner and suspend further pick up of milk from the producer whose milk contaminated the bulk load until followup tests of that producer's milk test negative for drug residues. The dairy processor must perform these followup tests.
 - e. Testing bulk loads. In addition to performing routine beta lactam tests, a processor shall randomly test bulk milk deliveries for other drug residues as required by the commissioner. The drug testing program shall include milk from each producer in at least four separate months during any consecutive six-month period.
 - f. Finished product. All finished milk products must be free of antibiotics. Raw milk contaminated with antibiotics may not be used in processing finished milk products. All manufacturing grade finished milk products must be tested as determined by the commissioner. These products include fluid and cultured products, butter, cheese, and other products so designated by the commissioner.
2. **Drug residue and other substances.** A person may not sell or offer for sale milk that contains drug residues or other chemical substances in amounts above the tolerances set in the food and drug administration's Memorandum of Information No. M-I-28-9, dated February 9, 2018, and in title 21, Code of Federal Regulations, parts 530 and 556. These levels are merely guidelines. Milk with drug residues or other chemical substances below these tolerances is not necessarily unadulterated or otherwise acceptable milk, and selling or offering to sell such milk may be subject to penalty and other regulatory action by the commissioner.
- a. When a producer has shipped milk that tests positive for residue, the producer's farm license must be suspended until a sample of the producer's milk tests negative.
 - b. When a producer has shipped milk that tests positive for residue three times in a twelve-month period, the producer's farm license may be revoked if the commissioner's investigation warrants such action.
 - c. The commissioner will complete a followup inspection when a producer's milk tests positive for residue.
3. **Pesticides.** Milk containing any pesticides or chemical contamination exceeding food and drug administration or environmental protection agency standards for safe food may not be offered for sale.
4. **Added water.** Milk may not contain added water. Any packaged milk that tests under .530 degrees ~~Horvet~~Hortvet using the cryoscope thermistor test may not be offered for sale.

History: Effective October 1, 2009; amended effective July 1, 2019; July 1, 2024.

General Authority: NDCC 4.1-25-50

Law Implemented: NDCC 4.1-25-02, 4.1-25-26, 4.1-25-35, 4.1-25-36, 4.1-25-37

CHAPTER 7-03.2-04

7-03.2-04-01. General requirements for licensing dairy farms.

1. All dairy farms wishing to sell milk must apply for a farm license. No farm may sell milk without a license.
2. Application for a license must be filed with the commissioner. Soon after receiving the application the commissioner shall inspect the farm and its facilities and premises.
3. A set of plans containing information on the dairy farm, milking facility, and milking equipment must be submitted to the commissioner for new dairy farms and prior to major changes in existing facilities. The plans must be provided by the dairy producer and approved by the commissioner prior to licensure and prior to starting any construction.
4. A facility inspection must be conducted and a water sample taken as a licensing requirement. Satisfactory results from both these items will result in the posting of an inspection sheet, which certifies that the facility can sell milk in North Dakota.
5. The inspection sheet must be prominently posted in the milkhouse and is part of the record in all administrative proceedings involving compliance with North Dakota Century Code chapter 4.1-25 and rules enacted under it.
6. The commissioner will license dairy farms either as:
 - a. Grade A, which is a farm that is licensed to meet production practices required by North Dakota Century Code section 4.1-25-30; or
 - b. Manufacturing grade, which is a farm that is licensed to meet production requirements required by North Dakota Century Code section 4.1-25-28.
7. Licensure continues unless suspended or revoked and is not transferable.
8. A dairy farm temporarily not in use during a normally scheduled inspection is required to be relicensed prior to starting raw milk production.
9. All licensed farms will be assigned a producer number by the commissioner. This number must be used by the producer, bulk hauler, and plant when communicating with the ~~dairy~~ commissioner.

History: Effective October 1, 2009; [amended effective July 1, 2024.](#)

General Authority: NDCC 4.1-25-50

Law Implemented: NDCC 4.1-25-28, 4.1-25-30, 4.1-25-33

CHAPTER 7-03.2-07

7-03.2-07-02. Enforcement procedures.

1. Whenever three of the last five consecutive bacteria, temperature, or coliform counts exceed the standards of the pasteurized milk ordinance or United States department of agriculture regulations, the commissioner will suspend the license of the plant processing the product.
2. Whenever any phosphatase test is positive, the commissioner shall conduct an investigation to determine the cause and the product in question may not be offered for sale until the cause is determined and eliminated.
3. Whenever any drug or pesticide test results in a level exceeding the limits established by the food and drug administration or environmental protection agency, the product in question must be removed from the market and the commissioner shall conduct an investigation to determine the cause. The milk product in question may not be offered for sale until the cause is determined and eliminated.
4. ~~Raw milk cheese may not be processed or sold in North Dakota. All milk to be used for cheese processing must be heat treated or pasteurized. The heat treatment must be at least one hundred forty seven degrees Fahrenheit [63.89 degrees Celsius] for twenty one seconds, or at least one hundred fifty three degrees Fahrenheit [67.22 degrees Celsius] for fifteen seconds.~~Cheeses processed or sold in North Dakota must meet definitions and standards found in title 21, Code of Federal Regulations, Part 133.

History: Effective October 1, 2009; amended effective July 1, 2024.

General Authority: NDCC 4.1-25-50

Law Implemented: NDCC 4.1-25-29, 4.1-25-30, 4.1-25-52

CHAPTER 7-03.2-09

7-03.2-09-01. Frozen desserts - Manufacturers and processors regulations.

1. For the purposes of this chapter, frozen desserts include ice cream, ice milk, sherbet, soft serve, frozen yogurt, and any frozen dessert or ice cream mix containing dairy products.
2. A license from the commissioner is required for any frozen dessert processor that packages, freezes, or adds flavors to ice cream mix. Establishments ~~taking the product directly from the mix freezer and delivering it~~ selling or delivering directly to the ultimate consumer are exempt from licensing.
3. All frozen dessert processors must be inspected once every three months by the commissioner.
4. All new equipment used by frozen dessert processors must comply with 3A standards or other standards acceptable to the commissioner. Modifications of plant processes for manufacturing frozen desserts must be submitted to the commissioner for approval prior to installation or construction.
5. All raw milk and dairy ingredients used in processing frozen desserts must be pasteurized and must originate from plants approved by the United States department of agriculture, the food and drug administration, or the commissioner.
6. Sanitary requirements, at a minimum, must meet United States department of agriculture regulations for manufacturing frozen desserts.
7. Four samples within a six-month period must be collected by the commissioner from each frozen dessert processor.
8. Samples must be handled in accordance with the standard methods. Samples must be tested at laboratories approved by the commissioner.

History: Effective October 1, 2009; amended effective July 1, 2024.

General Authority: NDCC 4.1-25-50

Law Implemented: NDCC 4.1-25-02, 4.1-25-29, 4.1-25-30

7-03.2-09-02. Microbiological requirements for ice cream, ice milk, ice cream mix, and frozen yogurt.

1. The United States department of agriculture regulations that set microbiological requirements for frozen desserts apply to ice cream, ice milk, ice cream mix, and frozen yogurt.
2. All milk, when delivered to a plant to be used in making ice cream, ice milk, ice cream mix, or frozen yogurt, must have a temperature of forty-five degrees Fahrenheit [7.22 degrees Celsius] or lower. If the delivered milk is from a single producer, it must not exceed five hundred thousand per milliliter standard plate count. If the delivered milk is commingled, it must not exceed one million per milliliter standard plate count.
3. All cream delivered to a plant to be used in making ice cream, ice milk, ice cream mix, or frozen yogurt must have a temperature of forty-five degrees Fahrenheit [7.22 degrees Celsius] or lower. All delivered cream must not exceed eight hundred thousand per milliliter standard plate count.
4. All dry dairy ingredients to be used in making ice cream, ice milk, ice cream mix, or frozen yogurt must meet the manufacturing standards set by United States department of agriculture regulations.

5. All ice cream, ice milk, ice cream mix, and frozen yogurt products must meet the following phosphatase and coliform requirements:
 - a. Phosphatase. The phenol value of a product may be no greater than the minimum specified for the product as determined by the phosphatase test in the standard methods, or other tests approved by the commissioner.
 - b. Coliform.
 - (1) In plain ice cream, ice milk, ice cream mix, and frozen yogurt products, the coliform may not exceed ten per milliliter. Further, these products must not exceed ~~twenty~~fifty thousand per milliliter standard plate count.
 - (2) In flavored ice cream, ice milk, ice cream mix, and yogurt products, the coliform may not be more than twenty per milliliter. Further, these products must not exceed ~~twenty~~fifty thousand per milliliter standard plate count.

History: Effective October 1, 2009; amended effective July 1, 2024.

General Authority: NDCC 4.1-25-50

Law Implemented: NDCC 4.1-25-29, 4.1-25-30, 4.1-25-50

7-03.2-09-03. Resampling.

When a sample exceeds the microbiological requirements, the licensed operator must be notified in writing. When two samples out of four consecutive samples of the same flavor are not in compliance, a warning must be sent. ~~After which, an additional sample must be taken in not less than three days or more than twenty-one days from the notification. An inspection must be made at this time to determine sanitary conditions~~The next batch produced of that flavor shall be sampled. When three out of five consecutive samples of the same flavor are not in compliance, sale of the flavored product must be stopped until the test results are in compliance.

History: Effective October 1, 2009; amended effective July 1, 2019; July 1, 2024.

General Authority: NDCC 4.1-25-50

Law Implemented: NDCC 4.1-25-29, 4.1-25-30, 4.1-25-44

CHAPTER 7-03.2-17

7-03.2-17-01. Requirements.

1. All grade A goat and sheep milk must be produced according to the pasteurized milk ordinance.
2. Processing goat and sheep milk must meet the United States department of agriculture's manufacturing rules if the milk is to be sold as manufacturing grade ~~milk, but if it is to be sold as grade A milk then it must meet the pasteurized milk ordinance~~products.
3. All raw goat and sheep milk must be pasteurized or heat-treated before being used in cheese or other food products intended for human consumption. All goat or sheep milk products and cheeses must be properly identified as to type of the product and ingredients, ~~and all heat-treated cheeses must be aged at least six months before being offered for human consumption.~~ Cheeses made with goat or sheep milk must meet the standards of identity found under title 21, Code of Federal Regulations, Part 133.
4. The commissioner may modify the requirements of this section if the commissioner finds that the health, safety, and welfare of the general public, as well as the quality of the product, will not be compromised.

History: Effective October 1, 2009; amended effective July 1, 2019; July 1, 2024.

General Authority: NDCC 4.1-25-50

Law Implemented: NDCC 4.1-25-30

CHAPTER 7-11-01

7-11-01-02. Licenses - Application for licenses.

Application for licenses must be made on forms provided by the commissioner of agriculture.

1. **Egg dealer's license.** Every person who wants access to commercial egg markets, engaged in the business of producing eggs shall first apply to and obtain from the department of agriculture an egg dealer's license. Licenses must be issued by the department upon receipt of proper application after inspection and approval of premises and equipment by an egg inspector pursuant to the rules of this article.
2. **Candler license.** ~~Every person who candles and grades eggs must be licensed. Candler or egg grader licenses must be issued after the candler or grader shows competence in grading and candling eggs as determined by the department of agriculture.~~

Egg dealer ~~and candler grader~~ licenses are not transferable. New egg dealers ~~or candler graders~~ must possess a license. License fees are ten dollars annually and must be renewed by June first of each year.

History: Effective January 1, 1993; amended effective July 1, 2019; [July 1, 2024](#).

General Authority: NDCC 4.1-19-06

Law Implemented: NDCC 4.1-19-06

7-11-01-03. Labeling and sales requirements.

1. **Farm flock egg handling requirements.** The farm flock egg handling requirements for egg production is a voluntary program.
2. **Temperature.** All eggs held or offered for sale must be stored in refrigerated compartments. The temperature cannot exceed forty-five degrees Fahrenheit [7.22 degrees Celsius]. This also includes temporary storage.
3. **Cartons.** Farm flock eggs offered for sale must be identified with the producer's name and address. Either blank cartons can be used or a carton with the individual farm name can be made up. [Federal regulations also require the following label on all shell eggs.](#)

[SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly.](#)

4. ~~Expiration dates. All case lots of eggs must have a placard bearing the expiration date and producer's name. The expiration date cannot exceed twenty-three days from the date of washing and sanitizing.~~ [Pack dates. All cartons must display a code indicating the date the eggs were packed. In addition to the pack date, the package may display a "use before" or "best before" date, but those dates may not exceed forty-five days from the pack date.](#)

History: Effective January 1, 1993; amended effective July 1, 2019; [July 1, 2024](#).

General Authority: NDCC 4.1-19-06

Law Implemented: NDCC 4.1-19-06

7-11-01-06. Egg cleaning.

Eggs must be washed either manually or with the aid of automatic cleaning equipment. The entire shell of all eggs ~~must~~[may not](#) be submerged. After washing the egg, it must be treated with a sanitizing solution and allowed to dry before packing. Clean potable water must be used in the egg-cleaning [and sanitizing](#) process. When manually washing eggs, a wash vat can be used with the detergent. Eggs should not be allowed to soak in water. ~~Sanitizers~~[The strength of the sanitizing spray must be no less](#)

than fifty parts per million nor more than two hundred parts per million of available chlorine or its equivalent. Other sanitizers formulated in compliance with 21 Code of Federal Regulations, section 178.1010 are acceptable for use in sanitizing shell eggs provided the sanitizers are registered with the federal environmental protection agency and labeled for use on shell eggs.

History: Effective January 1, 1993; amended effective July 1, 2019; July 1, 2024.

General Authority: NDCC 4.1-19-06

Law Implemented: NDCC 4.1-19-06

7-11-01-07. General requirements.

1. Farms selling eggs to retailers or other business establishments will need an annual water sample, if supplied by well water.
2. Inspections of farm shell egg producers must be annually unless the commissioner of agriculture determines more inspections are necessary.
3. Failure to comply with farm shell rules may result in revocation of a permit.
4. Farm shell egg producers have the right to appeal or request a hearing to reinstate an egg producer permit. The appeal process must be started within fifteen business days after permit suspension.
5. Farm shell egg producers and custom processors, custom hatcheries, and any other persons not directly buying or selling live poultry are exempt from North Dakota Century Code section 4.1-19-04.
6. Training for egg candling and grading will be provided by the department of agriculture.
7. Buildings housing egg grading and packing equipment must meet the following requirements:
 - a. Be of sound construction to prevent the entrance or harborage of vermin.
 - b. Be kept clean during grading and packing operations.
 - c. Be kept sanitary to prevent contamination of eggs during handling.
8. North Dakota shell egg production guidelines must be the same as the standards that govern the United States department of agriculture shell egg program.
9. The North Dakota department of agriculture may inspect out-of-state eggs at the retail level to assure compliance with North Dakota shell egg regulations.

History: Effective January 1, 1993; amended effective July 1, 2024.

General Authority: NDCC 4.1-19-06

Law Implemented: NDCC 4.1-19-06

ARTICLE 7-17 PET FOOD AND SPECIALTY PET FOOD

Chapter	
7-17-01	Definitions
7-17-02	Label Format and Labeling
7-17-03	Brand and Product Names
7-17-04	Expression of Guarantees <u>[Repealed]</u>
7-17-05	Ingredients
7-17-06	Drugs and Pet Food Additives
7-17-07	Nutritional Adequacy Feeding <u>[Repealed]</u>
7-17-08	Directives Statements
7-17-09	Calorie Content Descriptive <u>[Repealed]</u>
7-17-10	Terms Manufacturer
7-17-11	Distributor
<u>7-17-12</u>	<u>Intended Use Statement and Nutritional Adequacy Claims</u>
<u>7-17-13</u>	<u>Pet and Specialty Pet Nutrition Facts</u>
<u>7-17-14</u>	<u>Determination of Calorie Content for Dog and Cat Food</u>

CHAPTER 7-17-01

7-17-01-01. Definitions.

As used in this article, unless the context requires otherwise, means:

1. "AAFCO" means the association of American feed control officials.
2. "All life stages" means gestation/lactation, growth, and adult maintenance life stages for dogs, cats, and other mammals (including breeding animals) or adult and juvenile life stages for nonmammalian species.
3. "Daily food" means a specialty pet food product, other than a treat, food mixer or food supplement, for specialty pet species with no recognized nutritional authority.
- ~~2.~~4. "Familiar household unit" means a typical feeding unit in volume or count (e.g., can, measuring cup, treat, or piece).
5. "Family" means a group of products, which are nutritionally adequate for any or all life stages based on their nutritional similarity to a lead product, which has been successfully test-fed according to an association of American feed control officials feeding protocol.
6. "Food mixer" means a pet or specialty pet food product that is intended to top, accompany, or contribute to a complete diet but is generally not intended to be a complete diet.
7. "Food supplement" means a pet or specialty pet food product that is intended to supply specific nutrients or other food components but is not a complete diet.
- ~~3.~~8. "Immediate container" means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.
- ~~4.~~9. "Ingredient statement" means a collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed.
10. "Pet nutrition facts" means a graphic box located on the label containing nutritional information for a pet food product.

~~5.11.~~ "Principal display panel" means the part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

12. "Specialty pet nutrition facts" means a graphic box located on the label containing nutritional information for a specialty pet food product.

13. "Veterinary diet" means a pet or specialty pet food product that is intended to be used under veterinary supervision only.

History: Effective July 1, 2020; amended effective July 1, 2024.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

CHAPTER 7-17-02

7-17-02-01. Label format and labeling.

1. Pet food and specialty pet food must be labeled with the following information:
 - a. Product name and brand name, if any, on the principal display panel;
 - b. A statement specifying the ~~species name of pet or specialty pet for which the food is intended, conspicuously designated on the principal display panel~~intended use of the product as specified in chapter 7-17-12;
 - c. Quantity statement as defined in (section reference of the rules), by weight (pounds and ounces, and metric), liquid measure (quarts, pints, and fluid ounces, and metric) or by count, on the principal display panel;
 - d. ~~Guaranteed analysis~~Pet nutrition facts or specialty pet nutrition facts as specified in chapter 7-17-13;
 - e. Ingredient statement as specified in chapter 7-17-05;
 - ~~f. A statement of nutritional adequacy or purpose if required;~~
 - ~~g.f.~~ Feeding directions if required;
 - ~~h. A statement of calorie content~~ as specified in chapter 7-17-08; and
 - ~~i.g.~~ Name and address of the manufacturer or distributor as specified in chapter 7-17-11.
2. When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information must appear on the outer container or wrapper.
3. A vignette, graphic, or pictorial representation on a pet food or specialty pet food label may not misrepresent the contents of the package.
4. The use of the word "proven" in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence.
5. No statement may appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product.
6. A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading.
7. A statement on a pet food or specialty pet food label stating "improved", "new", or similar designation must be substantiated and limited to six months production.
8. A statement on a pet food or specialty pet food label stating preference or comparative attribute claims must be substantiated and limited to one year production, after which the claim must be removed or resubstantiated.

History: Effective July 1, 2020; amended effective July 1, 2024.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

CHAPTER 7-17-03

7-17-03-01. Brand and product names.

1. The names of the ingredients used in the brand or product name or elsewhere on the product label must appear in order of predominance by weight in the product. Names of flavors due to their varying intensity can be in any order.
2. The words "one hundred percent" or "all", or words of similar designation may not be used in the brand or product name of a pet food or specialty pet food if the product contains more than one ingredient, not including decharacterizing agents, or trace amounts of preservatives and condiments.
- 2:3. An ingredient or combination of ingredients may form part of a product name of a pet food or specialty pet food when:
 - a. The ingredient constitutes at least ninety-five percent of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredients must constitute at least seventy percent of the total product weight.
 - b. When any ingredient constitutes at least twenty-five percent of the weight of the product, provided:
 - (1) Water sufficient for processing may be excluded when calculating the percentage. However, the ingredient must constitute at least ten percent of the total product weight;
 - (2) A descriptor is used with the ingredient name. This descriptor must imply other ingredients are included in the product formula; and
 - (3) The descriptor must be in the same size, style, and color print as the ingredient name.
 - c. When a combination of ingredients that are included in the product name in accordance with this section meets all of the following:
 - (1) Each ingredient constitutes at least three percent of the product weight, excluding water sufficient for processing; and
 - (2) ~~The names of the ingredients appear in the order of their respective predominance by weight in the product; and~~
 - ~~(3) All such ingredient names appear on the label in the same size, style, and color print.~~
 - d. When the name of any ingredient appears in the product name of a pet food, specialty pet food, or elsewhere on the product label and includes a descriptor such as "with" or similar designation, the named ingredient must constitute at least three percent of the product weight exclusive of water sufficient for processing. If the names of more than one ingredient are shown, they must appear in their respective order of predominance by weight in the product. The three percent minimum level may not apply to claims for nutrients, such as vitamins, minerals, and fatty acids, as well as condiments. The word "with" or similar designation, and named ingredients must be in the same size, style, color, and case print, and be of no greater size than:

Panel Size	Max "With Claim" Type Size
≤5 inches ²	⅛ inch
>5 to ≤25 inches ²	¼ inch
>25 to ≤100 inches ²	⅜ inch
>100 to ≤400 inches ²	½ inch
>400 inches ²	1 inch

e. A flavor designation may be included as part of the product name or elsewhere on the label of a pet food or specialty pet food when the flavor designation meets all of the following:

- (1) The flavor designation:
 - (a) Conforms to the name of the ingredient as listed in the ingredient statement; or
 - (b) Is identified by the source of the flavor in the ingredient statement; and
- (2) The word "flavor" is printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation; and
- (3) Substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request.

~~f. The product name of the pet food or specialty pet food may not be derived from one or more ingredients unless all ingredients are included in the name, except as specified by this rule, provided that the name of an ingredient or combination of ingredients may be used as a part of the product name if:~~

- ~~(1) The ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present in amounts that have a material bearing upon the price of the product or upon acceptance of the product by the purchaser thereof; or~~
- ~~(2) It does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients.~~

~~g.f.~~ Contractions or coined names referring to ingredients may not be used in the brand name of a pet food or specialty pet food unless it is in compliance with this rule.

~~g. Unless a pet food or specialty pet food is identified on the principal display panel as a stew, gravy, sauce, broth, aspic, juice, milk replacer, or other such name, the maximum moisture declared on a pet food or specialty pet food label may not exceed seventy-eight percent or the natural moisture content of the ingredients, whichever is higher.~~

History: Effective July 1, 2020; amended effective July 1, 2024.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

**CHAPTER 7-17-04
EXPRESSION OF GUARANTEES**

[Repealed effective July 1, 2024]

Section
~~7-17-04-01~~ Expression of Guarantees

CHAPTER 7-17-05

7-17-05-01. Ingredients.

1. Each ingredient of a pet food or specialty pet food must be listed in the ingredient statement as follows:
 - a. The names of all ingredients in the ingredient statement must be shown in letters or type of the same size, style, and color, except if the defined name of the ingredient includes genus and species (e.g., microorganisms) which may be shown in italics;
 - b. The ingredients must be listed in descending order by their predominance by weight in nonquantitative terms except if the ingredient is a vitamin or mineral premix, the premix may be declared in order of predominance by the name "vitamins" or "minerals," as appropriate, followed by a parenthetical listing of all the vitamins or minerals in the premix, each in order of predominance by weight as listed on the ingredient statement of the premix label;
 - c. Ingredients must be listed and identified by the name ~~and definition~~ established by ~~association of American feed control officials; and~~ AAFCO;
 - d. ~~Any~~An ingredient for which no name and definition have been ~~so~~ established must be identified by the common or usual name of the ingredient~~;~~;
 - e. An ingredient suitable for use in pet food or specialty pet food for which there is a codified standard of identity in title 9 or 21, Code of Federal Regulations shall be declared in accordance with the applicable regulation, which includes the name of the standardized food followed by a parenthetical listing of its ingredients, if necessary, as provided in the regulation;
 - ~~2.f.~~ f. The ingredients "meat," "poultry," "poultry byproducts," or "meat byproducts" must be qualified to designate the animal from which the ~~meat or meat byproducts~~ingredients are derived unless the meat or meat byproducts are derived from cattle, swine, sheep, goats, or any combination thereof. ~~For example, ingredients derived from horses must be listed as "horsemeat" or "horsemeat byproducts";~~ or the poultry or poultry meal are derived from chickens, turkeys, ducks, geese, guineas, ratites, or squabs, or any combination thereof. For example, ingredients derived from deer shall be listed as "venison" or "venison byproducts";
 - ~~g.~~ g. For ingredients consisting of fish, "fish meal," or "fish byproducts," the name of the ingredient may include "fish" without further specification of the type of the fish or if it bears a name descriptive of its kind (e.g., "ocean whitefish" or by using the acceptable market name or common name, but not any vernacular or slang names, of the individual fish species in the ingredient as established by the FDA Seafood List), it must correspond thereto; and
 - ~~h.~~ h. For purposes of ingredient labeling of pet food or specialty pet food, the ingredient "sugar" must refer to sucrose, which is obtained from sugar cane or sugar beets in accordance with the provisions in title 21, Code of Federal Regulations. For all other labeling purposes outside the ingredient list, the term "sugar" is synonymous with "sugars" as defined in the official feed terms.
- ~~3.2.~~ 2. Brand or trade names may not be used in the ingredient statement.
- ~~3.~~ 3. Reference to quality or grade of an ingredient may not appear in the ingredient statement.

4. The term "organic", if properly used as specified by the United States department of agriculture national organic program (title 7, Code of Federal Regulations, part 205), is allowed.

~~4.5.~~ A reference to the ~~quality~~, nature, form, or other attribute of an ingredient must be allowed ~~when the reference meets all of the following:~~in the ingredient statement when that attribute imparts a distinctive characteristic to the pet food or specialty pet food.

6. Any reference to the percentage of an ingredient or combination of ingredients, by symbol or word, in the brand or product name or elsewhere on a pet food or specialty pet food label, must be based in relation to the total weight of all ingredients in the product.

a. ~~The designation is not false or misleading;~~

~~b. The ingredient imparts a distinctive characteristic to the pet food or specialty pet food because it possesses that attribute; and~~

~~c. A reference to quality or grade of the ingredient does not appear in the ingredient statement~~The names of the ingredients must appear in order of predominance by weight in the product, provided that names of flavors due to their varying intensity may be in any order.

b. If water sufficient for processing is excluded from the declared percentage, the exclusion of water must be indicated in words juxtaposed to, the same style and color print, and at least one-half the print size of the stated percentage (e.g., "95% beef exclusive of water" or "95 percent chicken and liver exclusive of water").

History: Effective July 1, 2020; amended effective July 1, 2024.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

**CHAPTER 7-17-07
NUTRITIONAL ADEQUACY FEEDING**

[Repealed effective July 1, 2024]

Section
~~7-17-07-01~~ — ~~Nutritional Adequacy~~

**CHAPTER 7-17-09
CALORIE CONTENT DESCRIPTIVE**

[Repealed effective July 1, 2024]

Section
~~7-17-09-01 — Statements of Calorie Content~~

CHAPTER 7-17-10

7-17-10-01. Descriptive terms.

1. Calorie terms:

a. "Light":

(1) A dog food product that bears on its label the terms "light", "lite", "low calorie", or words of similar designation must:

(a) Contain no more than three thousand one hundred kcal ME/kg for products containing less than twenty percent moisture, no more than two thousand five hundred kcal ME/kg for products containing twenty percent or more but less than sixty-five percent moisture, and no more than nine hundred kcal ME/kg for products containing sixty-five percent or more moisture; and

(b) ~~Include on the label a calorie content statement:~~

~~[1] In accordance with the format provided in chapter 7-17-09; and~~

~~[2] That states no more than three thousand one hundred kcal ME/kg for products containing less than twenty percent moisture, no more than two thousand five hundred kcal ME/kg for products containing twenty percent or more but less than sixty-five percent, and no more than nine hundred kcal ME/kg for products containing sixty-five percent or more moisture; and~~

~~(c) Include on the label feeding directions that reflect a reduction in calorie intake consistent with the intended use.~~

(2) A cat food product that bears on its label the terms "light", "lite", "low calorie", or words of similar designation must:

(a) Contain no more than three thousand two hundred fifty kcal ME/kg for products containing less than twenty percent moisture, no more than two thousand six hundred fifty kcal ME/kg for products containing twenty percent or more but less than sixty-five percent moisture, and no more than nine hundred fifty kcal ME/kg for products containing sixty-five percent or more moisture; and

(b) ~~Include on the label a calorie content statement:~~

~~[1] In accordance with the format provided in chapter 7-17-09; and~~

~~[2] That states no more than three thousand two hundred fifty kcal ME/kg for products containing less than twenty percent moisture, no more than two thousand six hundred fifty kcal ME/kg for products containing twenty percent or more but less than sixty-five percent moisture, and no more than nine hundred fifty kcal ME/kg for products containing sixty-five percent or more moisture; and~~

~~(c) Include on the label feeding directions that reflect a reduction in calorie intake consistent with the intended use.~~

b. "Less" or "reduced calories":

- (1) A dog or cat food product that bears on its label a claim of "less calories", "reduced calories", or words of similar designation, must include on the label:
 - (a) The name of the product of comparison and the percentage of calorie reduction expressed on an equal weight basis explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears;
 - (b) The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and
 - (c) ~~A calorie content statement in accordance with the format provided in chapter 7-17-09; and~~
 - ~~(d) Feeding directions that reflect a reduction in calories compared to feeding directions for the product of comparison.~~
- (2) A comparison between products in different categories of moisture content is misleading.

2. Fat terms:

a. "Lean":

- (1) A dog food product that bears on its label the terms "lean", "low fat", or words of similar designation shall:
 - (a) Contain no more than nine percent ~~crude~~-fat for products containing less than twenty percent moisture, no more than seven percent ~~crude~~-fat for products containing twenty percent or more but less than sixty-five percent moisture, and no more than four percent ~~crude~~-fat for products containing sixty-five percent or more moisture;
 - (b) Include on the product label in the ~~guaranteed analysis~~nutrient guarantees:
 - [1] A maximum ~~crude~~-fat guarantee immediately following the minimum ~~crude~~ fat guarantee in addition to the mandatory guarantee specified in ~~subdivision a of subsection 1 of section 7-17-04-01~~section 7-17-13-01; and
 - [2] A maximum ~~crude~~-fat guarantee that is no more than nine percent ~~crude~~ fat for products containing less than twenty percent moisture, no more than seven percent ~~crude~~-fat for products containing twenty percent or more but less than sixty-five percent moisture, and no more than four percent ~~crude~~-fat for products containing sixty-five percent or more moisture.
- (2) A cat food product that bears on its label the terms "lean", "low fat", or words of similar designation must:
 - (a) Contain a maximum percentage of ~~crude~~-fat which is no more than ten percent ~~crude~~-fat for products containing less than twenty percent moisture, no more than eight percent ~~crude~~-fat for products containing twenty percent or more but less than sixty-five percent moisture, and no more than five percent ~~crude~~-fat for products containing sixty-five percent or more moisture; and
 - (b) Include on the product label in the ~~guaranteed analysis~~nutrient guarantees:

- [1] A maximum ~~crude~~-fat guarantee immediately following the minimum-~~crude~~ fat guarantee in addition to the mandatory guarantee specified in ~~subdivision a of subsection 1 of section 7-17-04-01~~[section 7-17-13-01](#); and
- [2] A maximum percentage of ~~crude~~-fat that is no more than ten percent ~~crude~~-fat for products containing less than twenty percent moisture, no more than eight percent ~~crude~~-fat for products containing twenty percent or more but less than sixty-five percent moisture, and no more than five percent ~~crude~~-fat for products containing sixty-five percent or more moisture.

b. "Less" or "reduced fat":

- (1) A dog or cat food product that bears on its label a claim of "less fat", "reduced fat", or words of similar designation, must include on the label:
 - (a) The name of the product of comparison and the percentage of fat reduction expressed on an equal weight basis explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears;
 - (b) The comparative statement printed in type of the same color and style and least one-half the type size used in the claim; and
 - (c) A maximum ~~crude~~-fat guarantee ~~in the guaranteed analysis~~ immediately following the minimum ~~crude~~-fat guarantee in addition to the mandatory ~~guaranteed analysis~~ information as specified in ~~subdivision a of subsection 1 of section 7-17-04-01~~[section 7-17-13-01](#).
- (2) A comparison on the label between products in different categories of moisture content is misleading.

3. Carbohydrate terms:

- a. "Low" carbohydrate, dietary starch, and sugars claims. A claim of "low carbohydrates", "low dietary starch", "low sugars" alone or in combination is not allowed.
- b. "Less" or "reduced" carbohydrates, dietary starch, and sugars claims.
 - (1) A dog or cat food product that makes such statements on the label must include on that label:
 - (a) The name of the product of comparison and the percentage of reduction in total dietary starch plus sugars expressed on an equal weight basis explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and
 - (b) The comparative statement printed in type of the same color and style but not less than one-half the size used in the claim; and
 - (c) Maximum guarantees for dietary starch and sugars as stated in ~~subdivision e of subsection 1 of section 7-17-04-01~~[section 7-17-13-01](#).
 - (2) A comparison between products in different categories of moisture content is misleading.

History: Effective July 1, 2020; [amended effective July 1, 2024](#).

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

CHAPTER 7-17-11

7-17-11-01. Manufacturer or distributor; name and address.

1. The label of a pet food or specialty pet food must specify the name and address of the manufacturer or distributor. The statement of the place of business must include the street address, city, state, and zip code. The street address may be omitted if the street address is shown in a ~~current city directory or telephone directory for the city listed on the label~~readily accessible, widely published, and publicly available resource.
2. When a person manufactures packs, or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed.

History: Effective July 1, 2020; amended effective July 1, 2024.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05

CHAPTER 7-17-12
INTENDED USE STATEMENT AND NUTRITIONAL ADEQUACY CLAIMS

Section

7-17-12-01 Intended Use Statement and Nutritional Adequacy Claims

7-17-12-01. Intended use statement and nutritional adequacy claims.

1. A statement identifying the intended use of a pet food or specialty pet food is required on the principal display panel of the label in accordance with the following:

a. The intended use of a pet food or specialty pet food must be stated as:

- (1) "Complete food" for food products intended to be the complete diet for all life stages and sizes of a pet or specialty pet. The statement also must include the intended species (e.g., complete dog food);
- (2) For food products intended to be the complete diet for a limited life stage or size of a pet or specialty pet, one of the two following statements must be used, "complete food for" or "complete food". The statement also must include the intended species and life stage, when applicable (e.g., complete adult dog food, complete food for kittens);
- (3) "Veterinary diet" for food products intended to be used under veterinary supervision only. The statement also must include the intended species (e.g., veterinary diet for dogs);
- (4) "Treat" for food products for pets or specialty pets, provided occasionally for enjoyment, training, entertainment, or other purposes, and generally not intended or represented to be a complete food or nutritional supplement. The statement also must include the intended species (e.g., cat treats);
- (5) "Food supplement" for food products for pets or specialty pets that are intended to supply specific nutrients or other food components but are not a complete diet. The statement also must include the intended species (e.g., dog food supplement);
- (6) "Food mixer" for food products for pets or specialty pets that are intended to top, accompany, or contribute to a complete diet but generally are not intended or represented to be a complete diet; or
- (7) "Daily food" for food products that are intended to be the daily diet for specialty pets if no recognized nutritional authority exists. A limited life stage may be indicated. The statement also must include the intended species (e.g., daily bearded dragon food).

b. This intended use statement must:

- (1) Appear on the label principal display panel and must be repeated on the alternate principal display panel, if present;
- (2) Be at least as large as the statement of net quantity, consistent with 16 CFR 500.21;
- (3) Appear in the same color and style as the statement of net quantity and on the same background color as the statement of net quantity; and;

(4) Be separated by at least a space equal to the height of the letter "N" used in the statement of net quantity from other printed label information on all sides.

2. The label of a pet food or specialty pet food which is intended for all life stages and sizes of the pet or specialty pet may make unqualified claims, directly or indirectly, such as "complete and balanced", "perfect", "scientific", or "100% nutritious" if at least one of the following apply:

a. The product meets the nutrient requirements for all life stages and sizes established by an AAFCO-recognized nutrient profile.

b. The product meets the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol. Unqualified claims of nutritional adequacy that include large size dogs (greater than 70 pounds [31.75 kilograms] as an adult) can be substantiated by completing the appropriate protocols using large size dogs or can be substantiated by completing the appropriate protocols using dogs less than 70 pounds [31.75 kilograms] adult weight while containing no more calcium and phosphorus than the maximum limits for large size dogs listed in the AAFCO Dog Food Nutrient Profiles.

c. The product is a member of a product family that is nutritionally similar to a lead product that contains a combination of ingredients that have been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by AAFCO for all life stages, if:

(1) The nutritional similarity of the family product may be substantiated according to the procedures for establishing pet food product families developed by AAFCO;

(2) The family product meets the criteria for all life stages; and

(3) Under circumstances of reasonable doubt, the manufacturer performs additional testing of the family product in order to substantiate the claim of nutritional adequacy, as required by the commissioner.

3. The label of a pet food or specialty pet food that is intended for a limited purpose (such as size of dog) or a specific life stage, but not for all life stages and sizes, may make qualified claims, directly or indirectly, such as "complete and balanced", "perfect", "scientific", or "100% nutritious" if the product and claim meet both of the following:

a. The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable (e.g., "complete and balanced for puppies"). The claim and the required qualification must be juxtaposed on the same label panel and in the same size, style, and color print; and

b. The product meets at least one of the following:

(1) The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-recognized nutrient profile.

(2) The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol. Qualified claims of nutritional adequacy that include large size dogs can be substantiated by completing the appropriate protocols using large size dogs or can be substantiated by completing the appropriate protocols using dogs less than 70 pounds [31.75 kilograms] adult weight while containing no more calcium and phosphorus than the maximum limits for large size dogs listed in the AAFCO Dog Food Nutrient Profiles.

(3) The requirements of a product family that is nutritionally similar to a lead product which contains a combination of ingredients which, if fed for such limited purpose, satisfies the nutrient requirements for the limited purpose as demonstrated by adequate testing, and provided that:

(a) The nutritional similarity of the family product may be substantiated according to the procedures for establishing pet food product families developed by AAFCO;

(b) The family product meets the criteria for such limited purpose; and

(c) Under circumstances of reasonable doubt, the manufacturer performs additional testing for the family product to substantiate the claim of nutritional adequacy, as required by the commissioner.

4. A product intended for use by, or under the supervision or direction of, a veterinarian clearly must indicate the nutritional adequacy of the product in accordance with paragraph 6 of subdivision c of subsection 1 of section 7-17-13-01 or paragraph 6 of subdivision b of subsection 2 of section 7-17-13-01 as required for any other pet food or specialty pet food.

5. A signed affidavit attesting that the product meets the requirements of subsection 2 or subdivision b of subsection 3 must be submitted to the commissioner upon request.

6. If the nutrient content of a product does not meet those nutrient requirements established by an AAFCO-recognized nutrient profile, or if no requirement has been established by an AAFCO-recognized nutritional authority for the life stage of the intended species, the claimed nutritional adequacy of the product must be scientifically substantiated.

7. The following AAFCO-recognized nutritional authority, nutrient profile, or animal feeding protocol is acceptable as the basis for a claim of nutritional adequacy:

a. As an AAFCO-recognized nutrient profile or nutritional authority:

(1) For dogs, the AAFCO Dog Food Nutrient Profiles;

(2) For cats, the AAFCO Cat Food Nutrient Profiles;

(3) For specialty pets, the nutrient recommendations approved by the committee on animal nutrition of the national research council of the national academy of sciences if the nutrient recommendation is recognized only for the specific specialty pet for which the profile is intended.

b. As an AAFCO-recognized animal feeding protocol, the AAFCO Dog and Cat Food Feeding Protocols.

8. When the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an AAFCO-recognized nutrient profile, including a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels:

a. The product must meet the AAFCO-recognized nutrient profile;

b. The statement of comparison must be preceded by a statement that the product meets the AAFCO-recognized profile. However, the statement that the product meets the AAFCO-recognized nutrient profile is not required if the nutritional adequacy statement as per subdivision a of subsection 2 or paragraph 1 of subdivision b of subsection 3 appears elsewhere on the product label;

- c. The statement of comparison of the nutrient content must constitute a guarantee and must be in the nutrient guarantees within the pet or specialty pet nutrition facts; and
- d. The statement of comparison must appear on the label separate and apart from the nutrient guarantees within the pet or specialty pet nutrition facts.

History: Effective July 1, 2024.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05, 4.1-41-06, 4.1-41-07

CHAPTER 7-17-13 PET AND SPECIALTY PET NUTRITION FACTS

Section

7-17-13-01 Pet and Specialty Pet Nutrition Facts

7-17-13-01. Pet and specialty pet nutrition facts.

1. **Pet nutrition facts** must be displayed in a prominent place on the label of all pet foods (including treats, food supplements, veterinary diets, and food mixers). Information must be set off in a box by use of hairlines and clearly be visible under the heading "pet nutrition facts" that is centered in the top row of the box. The box must contain the following required elements with all text the same size and style in the following order:
 - a. The stated whole familiar household unit (e.g., can, measuring cup, treat, or piece), consistent with the feeding directions, and its weight in grams.
 - b. A statement of calorie content, determined as specified in section 7-17-14-01, which must include:
 - (1) The calorie content per familiar household unit.
 - (2) Below the calorie content statement, the number of calories contributed by protein, fat, and carbohydrate must be declared, in that order, after "from:".
 - c. The nutrient guarantees under the headers "nutrients". Each nutrient value and total grams per familiar household unit must be listed as follows:
 - (1) A pet food label must list the following required guaranteed amounts:
 - (a) "Protein", which is minimum percentage of crude protein;
 - (b) "Fat", which is minimum percentage of crude fat;
 - (c) Maximum percentage of crude fat, if required;
 - (d) "Total carbohydrate[†]", which is maximum percentage equal to $[100 - (\text{crude protein} + \text{crude fat} + \text{moisture} + \text{ash})]$;
 - (e) "Dietary fiber", which is maximum percentage of total dietary fiber. The dietary fiber guarantee must be indented to reflect that it is a component of the total carbohydrate guarantee;
 - (f) "Moisture", which is maximum percentage of moisture; and
 - (g) Additional required or voluntary guarantees, which must follow moisture or ash, if listed.
 - (2) If "ash" is listed, it must be guaranteed as a maximum percentage and immediately must follow moisture.
 - (3) If listed on the label of a dog or cat food product, guarantees for "dietary starch" and "sugars" must be stated as maximum guaranteed amounts. Neither guaranteed amount may be listed without the other. The guaranteed amount for dietary starch must follow dietary fiber. The guaranteed amount for sugars must follow dietary starch with the same indentation.

(4) The "†calculated value" must appear immediately after the last guarantee.

(5) Other additional required or voluntary guarantees must appear as follows:

(a) Guarantees for nutrients must be in the same order and units of the nutrients in the AAFCO Dog (or Cat) Food Nutrient Profiles following ash, if listed, or moisture, if ash is not listed.

(b) Guarantees for substances not listed in the AAFCO Dog (or Cat) Food Nutrient Profiles, or not otherwise provided for in these regulations, must immediately follow the listing of the recognized nutrients and be accompanied by an asterisk.

The disclaimer "***not recognized as an essential nutrient by the AAFCO Dog (or Cat) Food Nutrient Profiles**" must appear immediately after "†calculated value".

(6) The statement of nutritional adequacy must follow the guarantees as follows:

(a) A statement that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. It must be stated verbatim as one of the following:

[1] "(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for". This statement must also include the stage or stages of the pet's life, such as gestation/lactation, growth, maintenance, or the words "all life stages". For a dog food, when the words "growth" or "all life stages," one of the following phrases must also be added verbatim to the end of the claim: "including growth of large size dogs (70 lb. or more as an adult)", or "except for growth of large size dogs (70 lb. or more as an adult)"; or

[2] "Animal feeding tests using AAFCO procedures substantiate that (name of product) provides complete and balanced nutrition for". This statement must include the stage or stages of the pet's life tested, such as gestation/lactation, growth, maintenance, or the words "all life stages"; or

[3] "(Name of product) provides complete and balanced nutrition for". The statement must also include the stage or stages of the pet's life, such as gestation/lactation, growth, maintenance, or the words "all life stages" and end with "comparable in nutritional adequacy to a product that has been substantiated using AAFCO feeding tests".

(b) A nutritional or dietary statement for purposes other than those listed in subsection 2 or 3 of section 7-17-12-01 if the statement is scientifically substantiated; or

(c) The statement: "This product is intended for intermittent or supplemental feeding only", if a product does not meet the requirements of subsection 2 or 3 of section 7-17-12-01 or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.

2. **Specialty pet nutrition facts** must be displayed in a prominent place on the label of all specialty pet foods (including treats, food supplements, veterinary diets, and food mixers), information shall be set off in a box by use of hairlines and be clearly visible under the heading

"specialty pet nutrition facts" that is centered in the top row of the box. The box must contain the following required elements with all text the same size and style in the following order:

a. The stated whole familiar household unit (e.g., can, measuring cup, treat, or piece), consistent with the feeding directions, and its weight in grams.

b. The nutrient guarantees under the headers "nutrients". Each nutrient value and total grams per familiar household unit must be listed as follows:

(1) A specialty pet food label must list the following required guaranteed amounts:

(a) "Protein", which is minimum percentage of crude protein;

(b) "Fat", which is minimum percentage of crude fat;

(c) "Total carbohydrate", which is maximum percentage equal to [100 - (crude protein + crude fat + moisture + ash)];

(d) "Dietary fiber", which is maximum percentage of total dietary fiber. The dietary fiber guarantee must be indented to reflect that it is a component of the total carbohydrate guarantee on the line above;

(e) "Moisture", which is maximum percentage of moisture; and

(f) Additional required or voluntary guarantees that must follow moisture or ash, if listed.

(2) If "ash" is listed, it must be guaranteed as a maximum percentage and must immediately follow moisture.

(3) If listed on the label of a specialty pet food product, guarantees for "dietary starch" and "sugars" must be stated as maximum guaranteed amounts. Neither guaranteed amount may be listed without the other. The guaranteed amount for dietary starch must follow dietary fiber. The guaranteed amount for sugars must follow dietary starch with the same indentation.

(4) The "†calculated value" must appear immediately after the last guarantee.

(5) Other additional required or voluntary guarantees must appear as follows:

(a) The guarantees must follow ash, if listed, or moisture, if ash is not listed;

(b) Guarantees for nutrients must be in the same order and units of the nutrients in an AAFCO-recognized nutrient profile for the intended animal species. However, if no species-specific AAFCO-recognized nutrient profile is available, the order and units must follow the same order and units of nutrients in the AAFCO Cat Food Nutrient Profile;

(c) For those specialty pet species with an AAFCO-recognized nutrient profile for the intended animal species, guarantees for substances not listed in that profile, or not otherwise provided for in these regulations, immediately must follow the listing of the recognized nutrients and be accompanied by an asterisk.

Guarantees must contain the disclaimer "†not recognized as an essential nutrient by". The statement also must include the specific AAFCO-recognized nutrient profile and must appear immediately after the guaranteed amounts. However, no disclaimer is required if no AAFCO-

recognized nutrient profile is available for the specific species of specialty pet.

(6) The statement of nutritional adequacy must follow the guarantees as one of the following:

(a) For daily foods for specialty pet species for which no recognized nutritional authority exists, the statement: "This product is intended to be a daily food."

(b) For all other specialty pet foods:

[1] A statement substantiating that the specialty pet food meets the requirements for nutritional adequacy in subsection 2 or 3 of section 7-17-12-01 by an AAFCO-recognized nutritional authority. It must be stated verbatim as the following: "(Name of product) is formulated to meet the nutritional levels established by". It must also include the AAFCO-recognized authority for species and stage of specialty pets life:

[2] A nutritional or dietary claim for purposes other than those listed in subsection 2 or 3 of section 7-17-12-01 if the claim is scientifically substantiated; or

[3] The statement: "This product is intended for intermittent or supplemental feeding only", if a product is suitable only for limited or intermittent or supplementary feeding.

3. The pet nutrition facts or specialty pet nutrition facts box of a pet food or a specialty pet food formulated as and represented to be a food supplement must include the information required in subsection 1 or 2 except that guarantees must only be displayed on a per feeding unit (e.g., tablets, capsules, granules, or liquids) basis.

a. For a food supplement that is intended to be a source of nutrients, guarantees must appear for all nutrients that the product is intended to provide under the header "nutrients":

(1) For nutrients with an established requirement by an AAFCO-recognized nutrient profile, minimum guarantees must be declared in the same order and units (i.e., g, mg, or IU) specified in the AAFCO-recognized nutrient profile for the intended species.

(2) When no species-specific nutrient profile has been recognized by AAFCO, minimum guarantees must be declared in the same order and units (e.g., g, mg, or IU) specified in the AAFCO Cat Food Nutrient Profiles.

(3) Guarantees for substances not listed in an AAFCO-recognized nutrient profile for the intended animal species, or not otherwise provided for in these regulations, immediately must follow the listing of the recognized nutrients and be accompanied by an asterisk.

The guarantee must include the disclaimer "*not recognized as an essential nutrient by". The statement must also include the specific AAFCO-recognized nutrient profile and must appear immediately after the last such guaranteed amounts. No disclaimer is required if no AAFCO-recognized nutrient profile is available for the specific species of specialty pet.

b. For a food supplement that is intended to supply microorganisms or enzymes, guarantees must be declared on a per feeding unit (e.g., tablets, capsules, granules, or

liquids) basis. The enzyme activity unit meaning must follow the disclaimer within the box.

4. The sliding scale method of expressing a guaranteed amount on a pet food or specialty pet food label (e.g., "protein 15-18 percent min") is prohibited.

5. Protein, fat, calculated total carbohydrate, or dietary fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement.

6. For small packages with a total printable area of more than twelve square inches [77.42 square centimeters] and less than or equal to forty square inches [258.06 square centimeters], all information required in subsection 1 of section 7-17-05-01 must be listed. This information does not have to be in a box and must appear in one place without other intervening material as follows:

a. The required information must appear in the same order as required by this chapter;

b. Text must be the same size and style, except the heading "pet nutrition facts" or "specialty pet nutrition facts" must be bolded;

c. The text must be sufficiently large so as to be conspicuous and must not be smaller than one-sixteenth of one inch [1.59 millimeters];

d. The guaranteed amount must appear immediately after the amount "per familiar household unit" for each nutrient with the guaranteed amount enclosed in parentheses and all units clearly identified; and

e. The following abbreviations may be used: total carbohydrate as "carb", dietary fiber as "fiber".

7. For very small packages with a total printable area of less than or equal to twelve square inches [77.42 square centimeters], the following limited information must appear on the label in one place without other intervening material:

a. The same size and style text, except the heading "nutrition facts" shall be bolded;

b. Text sufficiently large so as to be conspicuous and not smaller than one-sixteenth of one inch [1.59 millimeters];

c. For pet foods, only total calories that must be stated as:

(1) "Cal (calc): [#]" when the calorie content is calculated; or

(2) "Cal (fed): [#]" when the calorie content is determined by testing; and

d. Guaranteed amounts stated in weight per entire contents (e.g., grams per pouch). The following required guaranteed amounts stated as a maximum or minimum, as appropriate:

(1) "Protein", which is crude protein;

(2) "Fat", which is crude fat;

(3) "Carb", which is calculated from [100 - (% crude protein + % crude fat + % moisture + % ash)];

(4) "Fiber", which is total dietary fiber;

(5) "Moisture", which is moisture; and

(6) Additional required or voluntary guarantees that must follow moisture or ash, if listed, and must comply with the requirements for such guarantees in subdivision c of subsection 1 or subdivision b of subsection 2, as appropriate, except they must be stated in weight per entire contents.

History: Effective July 1, 2024.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05, 4.1-41-06, 4.1-41-07

CHAPTER 7-17-14
DETERMINATION OF CALORIE CONTENT FOR DOG AND CAT FOOD

Section

7-17-14-01 Determination of Calorie Content for Dog and Cat Food

7-17-14-01. Determination of calorie content for dog and cat food.

1. The statement must be determined in terms of metabolizable energy (ME) on an "as fed" moisture basis by one of the following methods before being converted to calories (kcal) per the familiar household unit (e.g., can, measuring cup, treat, or piece):
 - a. By calculation (indicated with a "+" in the pet nutrition facts) using the "modified Atwater" formula; or
 - b. In accordance with testing procedures determined by AAFCO (indicated as "(fed)" in the pet nutrition facts).
2. An affidavit must be provided upon request of the commissioner, substantiating the calorie content was determined by:
 - a. Calculation, in which case the summary data used in the calculation must be included in the affidavit; or
 - b. Testing, in which case the summary data used in the determination of calorie content must accompany the affidavit.
3. The calories from protein, fat, and carbohydrate as required in the pet nutrition facts must be converted to calories (kcal) per the familiar household unit (e.g., can, measuring cup, treat, or piece).
4. Comparative claims may not be false, misleading, or given undue emphasis and must be based on the same methodology for the products compared.

History: Effective July 1, 2024.

General Authority: NDCC 4.1-41-20

Law Implemented: NDCC 4.1-41-05, 4.1-41-06, 4.1-41-07

ARTICLE 7-19
ENVIRONMENTAL IMPACT MITIGATION PROGRAM

Chapter
7-19-01 General Provisions

CHAPTER 7-19-01
GENERAL PROVISIONS

Section
7-19-01-01 Definitions
7-19-01-02 Implementation and Administration
7-19-01-03 Mitigation Plan and Payment
7-19-01-04 Agriculture Commissioner Notification to Legislative Management

7-19-01-01. Definitions.

For purposes of this chapter:

1. "Applicant" means a person that has filed on or after March 31, 2024, or is planning to file, an application for a proposed site, corridor, or route, pursuant to North Dakota Century Code chapter 49-22.
2. "Electric energy conversion facility" means the term as it is defined by North Dakota Century Code section 49-22-03.
3. "Electric transmission facility" means the term as it is defined by North Dakota Century Code section 49-22-03.
4. "Mitigation" means avoiding or minimizing adverse environmental impact or performing an action or activity to offset or otherwise compensate for adverse environmental impact by:
 - a. Planning and executing a mitigation plan; or
 - b. Payment to the agriculture commissioner for deposit into the environmental impact mitigation fund for expenditure in accordance with North Dakota Century Code section 4.1-01-21.1.
5. "Mitigation plan" means a plan of mitigation measures including creating or restoring similar habitat or offsetting or otherwise compensating for habitat adversely affected by the construction or operation of an electric energy conversion or transmission facility.
6. "Offset" means to counterbalance residual adverse environmental impact to achieve a net neutral or beneficial outcome, generally conducted after reasonable efforts have been undertaken to avoid and minimize impact or if avoidance or minimization of impact is not feasible.
7. "Similar habitat" means a physical environment that has the same or about the same corresponding resources, vegetation, and biotic factors serving multiple species that are exhibited in the physical environment within the vicinity of or generally surrounding the construction or operation of an electric energy conversion or transmission facility. These separate physical environments comprising similar habitat may resemble or somewhat differ from each other in general appearance, features, or other terrain characteristics.

History: Effective July 1, 2024.

General Authority: NDCC 4.1-01-21.1(4)

Law Implemented: NDCC 4.1-01-21.1(4), 49-22-03

7-19-01-02. Implementation and administration.

1. The agriculture commissioner is responsible for the implementation and administration of an environmental impact mitigation program and the environmental impact mitigation fund.
2. The environmental impact mitigation fund is a continuing appropriation contained within the state treasury. This fund consists of all moneys deposited in the fund by legislative appropriation or under North Dakota Century Code section 49-22-09.2.

History: Effective July 1, 2024.

General Authority: NDCC 4.1-01-21.1(4)

Law Implemented: NDCC 4.1-01-21.1, 49-22-09.2

7-19-01-03. Mitigation plan and payment.

1. Before an application is filed to construct or operate an electric energy conversion or transmission facility, or very early in that application process, an applicant may notify and coordinate with the agriculture commissioner about identified adverse environmental impacts from the construction or operation of the facility. A notification may:
 - a. Propose to the agriculture commissioner a mitigation plan to create or restore similar habitat or to offset or otherwise compensate for identified adverse environmental impacts; or
 - b. Request the agriculture commissioner to develop a mitigation plan, including a cost estimate, to create or restore similar habitat or to offset or otherwise compensate for identified adverse environmental impacts.
2. Prior to the public service commission issuing the applicant a permit or certificate, the agriculture commissioner shall notify the public service commission, for its consideration, of the mitigation plan and mitigation efforts or of any payment to the agriculture commissioner for deposit into the environmental impact mitigation fund for expenditure in accordance with North Dakota Century Code section 4.1-01-21.1.
3. As part of the permit or certificate process, the applicant may not make an offset payment to any person, other than the agriculture commissioner, to create or restore similar habitat or to offset or otherwise compensate for the adverse environmental impact resulting from the construction or operation of an electric energy conversion or transmission facility.

History: Effective July 1, 2024.

General Authority: NDCC 4.1-01-21.1(4)

Law Implemented: NDCC 4.1-01-21.1, 49-22-09.2

7-19-01-04. Agriculture commissioner notification to legislative management.

The agriculture commissioner shall provide a biennial report regarding the environmental impact mitigation fund to the legislative management no later than December thirty-first of every even-numbered year.

History: Effective July 1, 2024.

General Authority: NDCC 4.1-01-21.1(4)

Law Implemented: NDCC 4.1-01-21.1, 49-22-09.2

**ARTICLE 7-20
HEMP PRODUCTS**

Chapter
7-20-01 General Provisions

**CHAPTER 7-20-01
GENERAL PROVISIONS**

Section
7-20-01-01 Definitions
7-20-01-02 Labeling
7-20-01-03 Packaging - General Requirements
7-20-01-04 Distribution and Retail Sale of Cannabinoid Hemp

7-20-01-01. Definitions.

All terms have the same meaning as in North Dakota Century Code title 4.1 unless otherwise specified:

1. "Attractive to children" means manufactured in the shape of humans, cartoons, or animals; manufactured in a form that bears any reasonable resemblance to an existing product that is familiar to the public as a widely distributed or branded food product such that a product could be mistaken for the branded product, especially by children.
2. "Cannabinoid hemp" means an allowable hemp product that is:
 - a. Produced from hemp flower that does not have generally recognized as safe (GRAS) status as defined by 21 CFR 170.30(c) and 170.3(f);
 - b. Has a level of total tetrahydrocannabinol that does not exceed 5 milligrams per serving; and
 - c. Has a total CBD: total tetrahydrocannabinol ratio greater than 15:1, or if CBD is not the primary advertised cannabinoid, the sum of cannabinoids excluding tetrahydrocannabinol must have a ratio of 15:1 tetrahydrocannabinol or higher.
3. "Child-resistant" means packaging that is:
 - a. Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 CFR 1700.15 (1995) and 16 CFR 1700.20 (1995);
 - b. Resealable to maintain its child-resistant effectiveness for multiple openings for a product intended for more than a single use or containing multiple servings.
4. "COA" means certificate of analysis.
5. "Container" means a sealed, hard- or soft-bodied receptacle in which usable cannabinoid hemp is placed.
6. "Quick response code" or "QR code" means a two-dimensional bar code that encodes alphanumeric information such as a website address.

History: Effective July 1, 2024.

General Authority: NDCC 4.1-18.1-01

Law Implemented: NDCC 4.1-18.1-01, 4.1-18.1-07.1

7-20-01-02. Labeling.

Label information as required in North Dakota Century Code chapter 4.1-18.1 must be placed as follows:

1. Product labels must contain:

a. A list of all ingredients;

b. Any major allergens contained in the an edible cannabinoid hemp product in accordance with 21 U.S.C. 321(qq) (April 23, 2021), including milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, and soybeans.

c. A recommended serving suggestion that is easily identifiable and reasonable for the product size.

d. A statement of net contents identifying the net weight or volume, expressed as follows:

(1) If a solid, in both ounces and grams or milligrams; or

(2) If a liquid or colloid, in both fluid ounces and milliliters.

e. For any edible cannabinoid hemp product, except tinctures, oils, raw hemp, and capsules:

(1) The amount of advertised cannabinoids and the maximum total tetrahydrocannabinol expressed milligrams that may be in each serving and the number of servings per container; and

(2) A nutritional fact panel in accordance with 21 CFR part 101.9 (August 29, 2016).

f. For tinctures, oils, and capsules, the size of one or more dosages, expressed in milliliters, number of drops, or number of capsules, along with the amount of advertised cannabinoids and the maximum total tetrahydrocannabinol, in milligrams, that may be in each dosage identified.

g. For topical cannabinoid hemp products, the amount of advertised cannabinoids and the maximum total tetrahydrocannabinol expressed in milligrams that may be contained in the product.

h. For hemp flower products, the concentration of advertised cannabinoids and total tetrahydrocannabinol expressed as a concentration on a dry weight basis.

i. The expiration date.

j. Consumer warnings that state:

(1) "This product is not approved by the Food and Drug Administration to treat, cure, or prevent any disease."

(2) "Keep out of reach of children."

(3) "Consult your doctor before use."

(4) For a product containing any detectable level of tetrahydrocannabinol: "This product may contain THC and users of this product may test positive for cannabinoids in a drug test. May cause drowsiness. Do not drive or operate heavy machinery after use."

(5) "This product is not for minors."

2. Product labels may not make any health claims.

History: Effective July 1, 2024.

General Authority: NDCC 4.1-18.1-01.1

Law Implemented: NDCC 4.1-18.1-01.1, 4.1-18.1-04.4, 4.1-18.1-07.1

7-20-01-03. Packaging - General requirements.

All usable cannabinoid hemp products intended for distribution must be in containers that are:

1. Plain;

2. Unique to the hemp product so as not to be easily mistaken for popular nonintoxicating products;

3. Tamper-evident;

4. Child-resistant;

5. Suitable to contain products for human consumption;

6. Not attractive to children; and

7. Compliant with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. 1471 et seq., without regard to provided exemptions.

History: Effective July 1, 2024.

General Authority: NDCC 4.1-18.1-01.1

Law Implemented: NDCC 4.1-18.1-01.1, 4.1-18.1-07.1

7-20-01-04. Distribution and retail sale of cannabinoid hemp.

Cannabinoid hemp products may be distributed and sold in the state if the product meets the requirements of this chapter and section.

1. The COA must be physically available in the retail location or available by a QR code on the product label.

2. The hemp extract must be the product of a batch tested by an independent testing laboratory, which does not contain contaminants unsafe for human consumption.

3. Retail locations and retailers may not:

a. Market, entice, or encourage minors to purchase or use any hemp products;

b. Make health claims when advertising for any hemp products; or

c. Advertise with false, misleading, or deceptive statements about the hemp products.

History: Effective July 1, 2024.

General Authority: NDCC 4.1-18.1-01.1

Law Implemented: NDCC 4.1-18.1-01.1, 4.1-18.1-04.4, 4.1-18.1-07.1

TITLE 24.1
STATE ELECTRICAL BOARD

JULY 2024

CHAPTER 24.1-02-01

24.1-02-01-01. Definitions.

The terms used throughout this title have the same meaning as in the National Electrical Code except:

1. "Correction order", also marked as FS, indicates a correction is necessary before installation will be considered approved by the board. It means a notice, written by an electrical inspector to the person responsible for the electrical installation, stating violations and noncompliance of rules and regulations as listed shall be corrected within a designated time.
2. "E-cert" is an electronic version of a wiring certificate.
3. "Kitchen" means an area where food is prepared that includes a sink and one or more permanent cooking appliances.
4. "Service" means the conductors and equipment for delivering electric energy from the serving [utility source](#) to the wiring system of the premises served.
5. "Service point" means the point of demarcation between the serving utility and the premises wiring. The service point is the point on the wiring system where the serving utility ends and the premises wiring begins. The serving utility generally specifies the location of the service point.
6. "Wiring certificate" means a document consisting of one or more copies that certifies electrical wiring and equipment was installed on premises and was done in strict compliance with all the provisions of North Dakota Century Code chapter 43-09 and all the requirements of the board.

History: Effective April 1, 2017; [amended effective July 1, 2024](#).

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

24.1-02-01-02. General statement of policy and interpretative rules.

1. Purpose and scope. The purpose of these standards is the practical safeguarding of persons and of buildings and building contents from electrical hazards arising from the use or control of electricity for light, heat, power, and control thereof, fire detection systems, and power limited systems. It covers the electrical and power limited installations and associated equipment necessary for its safe operation.

2. These standards, based on the National Electrical Code, are the result of years of experience and research to meet the demand for uniform standards to govern electrical and power limited systems wiring in North Dakota, and provide basic rules for intelligent and uniform installation and inspection.
3. All requirements contained herein must be given careful consideration to ensure greatest permanence, convenience, and safety. These standards do not constitute a design specification for any particular installation, or an instruction manual for untrained individuals. Skill and experience are necessary factors for a safe and adequate wiring installation. Whenever these requirements differ or are in conflict with the requirements of the ~~NFPA 70 2017 edition National Electrical Code and NFPA 101 2015 edition Life Safety Code® through December 31, 2020, and~~ NFPA 70 ~~2020,2023~~ edition, National Electrical Code (first version, printed in 2022) and NFPA 101 ~~2018~~2021 edition Life Safety Code® ~~thereafter~~, and applicable articles in locally adopted codes or North Dakota State Building Code pertaining to fire detection, fire alarms, fire communications, and smoke detectors, the more restrictive requirements are the minimum.
4. Severability. If any section, sentence or clause, or provision of this chapter or the applicability thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances are not affected thereby.

History: Effective April 1, 2017; amended effective October 1, 2020; July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-05, 43-09-21, 43-09-22

24.1-02-01-03. Administrative powers and duties.

1. The executive director, under the direction of the board, shall administer laws, rules, and wiring standards of this state, the electrical requirements of the ~~NFPA 70 2017 edition National Electrical Code and applicable NFPA 72, 101, 110 2015 edition Life Safety Code® through December 31, 2020, and~~ NFPA 70 ~~2020,2023~~ edition, National Electrical Code (first version, printed in 2022) and NFPA 72, 101, 110 ~~2018~~2021 edition Life Safety Code® ~~thereafter~~, and applicable articles in locally adopted codes or North Dakota State Building Code pertaining to fire detection, fire alarms, fire communications, and smoke detectors. Whenever any action is taken by the executive director to enforce the provisions of any sections contained in these electrical regulations, the ~~NFPA 70 2017 edition National Electrical Code and NFPA 101 2015 edition Life Safety Code® through December 31, 2020, and~~ NFPA 70 ~~2020,2023~~ edition, National Electrical Code (first version, printed in 2022) and NFPA 101 ~~2018~~2021 edition Life Safety Code® ~~thereafter~~, such acts must be done in the name of and on behalf of the state.
2. The electrical regulations of these standards, the ~~NFPA 70 2017 edition National Electrical Code and NFPA 101 2015 edition Life Safety Code® through December 31, 2020, and~~ NFPA 70 ~~2020,2023~~ edition, National Electrical Code (first version, printed in 2022) and NFPA 101 ~~2018~~2021 edition Life Safety Code® ~~thereafter~~, may be modified or waived by special permission in particular cases when such modification or waiver is specifically permitted or in particular cases when an advancement in the technology of electricity makes such modification or waiver advisable in the best interest of the people of North Dakota. Such "special permission", in all cases, must be obtained from the executive director in writing before the commencement of the work.
3. Whenever the board is authorized or mandated by law to inspect an electrical installation, the inspector may enter upon land for the purpose of conducting the inspection. Except in emergency circumstances, the inspector shall request permission from the property owner or agent before entering a dwelling, other building, or other place so enclosed as manifestly to exclude intruders. If the landowner refuses to give permission, the board may request the district court of the district containing the property for an order authorizing the inspector to

enter the property to conduct the inspection. Emergency circumstances include situations presenting imminent danger to health, safety, or property.

History: Effective April 1, 2017; amended effective October 1, 2020; July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

CHAPTER 24.1-03-01

24.1-03-01-01. Application, examination, and annual license fees.

1. Upon receiving an application packet for an electrician's license from an applicant, the board shall process and review the applicant's employment verification of electrical construction experience as outlined under this section. Upon final approval of the application by the board, the applicant shall be sent an invitation to take the examination. The invitation shall outline the available testing dates. Upon receiving the invitation, the applicant shall contact the board and inform the board as to the date chosen to take the examination. Examination fees shall be paid separately to the examination testing center provider, if required.
2. An applicant shall have the necessary qualifications, training, and technical knowledge to wire, install, and repair electrical apparatus and equipment in accordance with the standard rules and regulations of the National Electrical Code.
3. The board issues an identification card to currently licensed and registered electricians. This identification card, along with a government-issued picture identification card, shall be in the possession of the electrician when doing electrical work. If the identification card is misplaced or destroyed, a replacement charge to cover board costs shall be imposed.
4. The application fees are as follows:

a. Master license	\$50.00
b. Journeyman license	\$25.00
c. Class B license	\$40.00
d. Apprentice registration	\$10.00
e. Power limited license	\$50.00
f. Power limited apprentice registration	\$10.00
5. ~~Effective November 1, 2020, annual renewals must be submitted electronically through the board's website.~~

—The license and registration or annual renewal fees are as follows:

a. Master license	\$50.00	Expires April thirtieth.
b. Journeyman license	\$25.00	Expires March thirty-first.
c. Class B license	\$40.00	Expires April thirtieth.
d. Apprentice registration	\$10.00	January thirty-first.
e. Power limited license	\$50.00	Expires April thirtieth.
f. Power limited apprentice registration	\$10.00	January thirty-first.

Expired licenses and registrations shall require a reinstatement fee equal to the annual fee.

History: Effective April 1, 2017; amended effective October 1, 2020; [July 1, 2024](#).

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-13, 43-09-21, 43-09-22

24.1-03-01-07. Apprentice electrician.

There are two categories of apprentice electrician training:

1. Apprentice electricians who have successfully completed at least two years of electrical school approved by the board.
2. Apprentice electricians who have successfully completed five hundred seventy-six hours of training classes or a professional electrician program recognized by the board. An applicant who has prior experience outside of the state of North Dakota may take a placement examination to verify the practical experience obtained in order to apply credit toward the verification of hours. If the applicant fails the placement examination, the applicant is ineligible to retake the examination. An appeal may be submitted in writing to the board within thirty days.

An apprentice electrician who has not successfully completed training as stated in subsection 1 or 2 is required to be registered with the board, but is not eligible to take the journeyman or class B license examination. If the individual receives a license from another state based on the verification that the majority of practical experience was obtained in the state of North Dakota the individual is not eligible for examination for licensure or a reciprocal license.

History: Effective October 1, 2020; amended effective July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-11, 43-09-15.1

CHAPTER 24.1-04-01

24.1-04-01-01. Education requirements for licensure and renewal.

No master, journeyman, power limited, or class B electrician license will be renewed unless proof of eight continuing education hours have been submitted, of which a minimum of fifty percent of the hours shall be based on the ~~NFPA 70 2017 edition National Electrical Code through December 31, 2020, and NFPA 70 2020~~ 2023 edition, National Electrical Code ~~thereafter~~ (first version, printed in 2022). The remaining credits shall be subjects related to the electrical industry. Approval of the education curriculum is required by the board.

History: Effective April 1, 2017; amended effective October 1, 2020; July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

CHAPTER 24.1-05-01

24.1-05-01-01. Electrical certificates.

1. All electrical installations, including power limited system installations defined by the National Electrical Code Special Occupancies, articles 500 through 517, with a value of five hundred dollars or more, must have an electrical wiring certificate submitted by the master, class B, or power limited electrician supervising the installation on a form prescribed by the board. A project with multiple address locations requires an electrical wiring certificate for each location.
2. Before work commences on any electrical installation when a new **entranceservice** is installed, an existing **entranceservice** is altered or repaired, a building is moved, when a mobile home **service or** feeder is installed, or when the cost of the repair work or additional installation exceeds five hundred dollars, the master, class B, or power limited electrician supervising such installation shall submit an electrical wiring certificate and distribute as follows:
 - a. A startup copy of the certificate must be submitted to the board and a copy to the power company before work is commenced and before an electrical installation may be energized.
 - b. Within fifteen days of completion, use, or occupancy, whichever is first, the final paperwork must be submitted to the ~~office of the~~ board, along with the proper fee. The wiring certificate must be completed with the location and a proper description of work completed.
 - c. A copy must be retained by the master, class B, or power limited electrician.
 - d. A copy must be left in or on the panel or given to the owner.
3. Certificates with job cost of twenty thousand dollars or less are valid twelve months from the original filing date. A new wiring certificate must be filed on all unfinished work.
4. E-certs are available upon request and submission of an application from any master, class B, or power limited electrician holding a proper current license from the board. ~~Electrical (paper) wiring certificates are available until August 31, 2020, or the effective date of the 2020 Laws, Rules & Wiring Standards.~~ The master, class B, or power limited electrician is responsible for all certificates issued to and by that person. A charge of twenty-five dollars to cover board costs must be assessed on each lost electrical paper wiring certificate issued to any master, class B, or power limited electrician, unless returned to the board.
5. Whenever an electrical installation made by or under the supervision of a master, class B, or power limited electrician is commenced or in use without submitting an electrical wiring certificate, as directed in subsection 2, the certificate may be considered late and the normal inspection fee, as required under this section, is increased in the amount of fifty dollars. In addition when time and travel are expended by employees of the board to obtain a late certificate, an investigative fee may be charged to cover the costs incurred. Costs are to be calculated at a rate of fifty dollars per hour and mileage rates currently allowed by North Dakota Century Code section 54-06-09 per mile of travel.
6. Property owners who are self-wiring or doing their own electrical work shall comply with the following before any electrical work commences:
 - a. Notify the board office of intent to self-wire.
 - b. Must own and occupy the residential property or farmstead where the electrical work will be done.

- c. Review plans or drawings depicting wiring to be done with the local electrical inspector.
- d. Inspection fees will be calculated as stated in this section with a minimum of fifty dollars.
- e. Certification and inspection are required as stated in this section.

History: Effective April 1, 2017; amended effective January 1, 2018; October 1, 2020; [July 1, 2024](#).

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

24.1-05-01-03. Carnivals, circuses, fairs, and similar events.

- 1. All carnivals, circuses, fairs, and similar events shall comply with article 525, ~~2017 edition, National Electrical Code through December 31, 2020, and article 525, 2020~~[2023](#) edition, National Electrical Code ~~thereafter~~[\(first version, printed in 2022\)](#).
- 2. All installations shall be approved by the electrical inspector before usage.
- 3. Each carnival, circus, fair, or similar event operating or intending to operate in North Dakota shall notify the North Dakota State Electrical Board, P.O. Box 7335, Bismarck, North Dakota 58507-7335, each year of its itinerary and make application for the initial inspection thirty days before the first engagement in the state. Failure to notify the board may result in expenses incurred for excess time and travel to inspect these installations.
- 4. The fee shall be paid to the inspector at the first engagement or inspection as follows:
 - a. \$15.00 each ride or concession;
 - b. \$15.00 reinspection fee on each unit, if required; and
 - c. \$50.00 each transformer or generator truck.
- 5. Each ride or concession wired properly will be issued a certification of compliance, serving for an entire season, subject to subsequent inspections.
- 6. Minor code violations will be issued a correction order with instructions to correct each violation before the next engagement. A reinspection will be required.
- 7. The electrical inspector is empowered to write a correction order for immediate compliance should the inspector find a condition dangerous to life and property.

History: Effective April 1, 2017; amended effective October 1, 2020; [July 1, 2024](#).

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

CHAPTER 24.1-06-01

24.1-06-01-10. Requirement for electrical installations.

Electrical installations shall be planned to provide adequate capacity for the load.

1. Wiring systems shall have conductors of sufficient capacity to furnish each outlet without excessive line loss or voltage drop. The voltage drop shall not exceed five percent at the farthest outlet of power, heating and lighting loads, or combinations of such loads. (See appendix for example.)
2. All wiring materials and equipment shall be listed by nationally recognized testing laboratories to safeguard life and property. It is the duty of the electrical installer to secure permission from the executive director to use materials, devices, and methods of installation not specifically covered by these standards. Equipment not approved under a testing laboratory category shall be evaluated by a registered professional engineer and recorded on evaluation forms accepted by the board.

Exception: Manufacturing firms that install industrial machinery for use by the firm itself and employ professional engineers may evaluate the industrial machinery according to NFPA 79 or UL 508 Standards. This evaluation shall be maintained with the equipment at all times and a copy submitted to the board.

3. When wiring public school buildings, approval shall be received from the department of public instruction and the board.
4. Overhead conductors shall not cross over water wells or known sites where water wells may be drilled. A minimum distance of twenty feet [6.10 meters] in all directions shall be maintained for overhead conductors.
5. In the wiring of nursing homes and hospitals, reference shall be made to the state department of health for special requirements pertaining to operating rooms, delivery rooms, and emergency lighting.
6. Aluminum ~~conductors in sizes smaller than no. 6 shall not be used. Aluminum conductors installed and all corresponding materials shall be approved by testing laboratories or~~ copper-clad aluminum conductors in sizes smaller than no. 6 must be used only for class II and class III circuits.
7. All new construction shall follow the energy-efficient related requirements for design and construction of buildings in accordance with the locally adopted codes or the State Building Code.
8. In any room of an existing building where the sheetrock or wall covering has been removed from all walls, the electrical wiring requirements must comply with the 2023 edition, National Electrical Code (first version, printed in 2022).
9. If the occupancy of an existing building or part of an existing building is changed, the electrical wiring and equipment of the building or portion thereof that contains the proposed occupancy must comply with the 2023 edition, National Electrical Code (first version, printed in 2022).

History: Effective April 1, 2017; amended effective July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

24.1-06-01-20. Water damaged electrical equipment.

Water damaged electrical equipment wiring and equipment exposed to water damage must comply with the following:

1. All breaker panel boards, breakers, fuses, disconnect switches, controllers, receptacles, switches, light fixtures, and electric heaters that have been submerged or exposed to water damage must be replaced or all electrical equipment, switchgear, motor control centers, boilers and boiler controls, electric motors, transformers, and other similar equipment, such as appliances, water heaters, dishwashers, ovens, and ranges that have been submerged must be reconditioned by the original manufacturer or by its approved representative or replaced.
2. Electrical wiring may require replacement depending on the type of wire or cable and what application it was listed for.
3. Splices and terminations must be checked to ensure compliance with article 110.14, ~~2017 edition, National Electrical Code through December 31, 2020, and article 110.14, 2020~~2023 edition, National Electrical Code ~~thereafter~~(first version, printed in 2022).
4. Energized electrical panels that have been submerged must be de-energized to prevent loss of life and property.

Other recommendations can be found in "Guidelines for Handling Water Damaged Electrical Equipment" published by the national electrical manufacturers association (NEMA).

History: Effective April 1, 2017; amended effective October 1, 2020; July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

24.1-06-01-30. Markings of means of egress, illumination of means of egress, and emergency lighting.

The purpose of this section is to provide marking of means of egress, illumination of means of egress, and emergency lighting of means of egress. Installations must comply with the requirements of ~~NFPA 101® (7.10.6 and 7.10.7), Life Safety Code®, 2015 edition through December 31, 2020, and~~ NFPA 101® (7.10.6 and 7.10.7), Life Safety Code®, ~~2018~~2021 edition ~~thereafter~~ or more stringent locally adopted codes. A condensed guide is included in the appendix for convenience, for complete and official information refer to the applicable standard.

History: Effective April 1, 2017; amended effective October 1, 2020; July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

24.1-06-01-40. Smoke alarms, heat alarms, fire alarm systems, and carbon monoxide alarm requirements for evacuation and life safety.

Alarm systems stated in this section shall be installed in accordance with the locally adopted codes or the State Building Code and state fire code under the supervision of a master or class B electrician. In new construction, all alarm systems shall receive their primary power from the building wiring and when primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.

1. Dwelling units, congregate residences, and hotel or lodging house guest rooms that are used for sleeping purposes shall be provided with smoke alarms. Alarms shall be installed in accordance with the approved manufacturer's instructions.

- a. When more than one smoke alarm is required to be installed within an individual dwelling unit the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. Smoke alarms shall be installed in the following locations:
 - (1) In each sleeping room.
 - (2) Outside each separate sleeping area in the immediate vicinity of the sleeping rooms.
 - (3) On each additional story of the dwelling, including basements and habitable attics but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
 - (4) In dwelling units where the ceiling height of a room open to the hallway serving the bedrooms exceeds that of the hallway by twenty-four inches [60.96 centimeters] or more, smoke alarms shall be installed in the hallway and in the adjacent room.
 - b. Heat alarms. For new construction, an approved heat alarm shall be installed in the attached single tenant garage of a residence and interconnected with the smoke alarms within the residence.
 - c. Household fire alarm systems installed in accordance with NFPA 72 that include smoke alarms, or a combination of smoke detectors and audible notification device installed as required by this section for smoke alarms, shall be permitted. The household fire alarm system shall provide the same level of smoke detection and alarm as required by this section for smoke alarms. Where a household fire warning system is installed using a combination of smoke detector and audible notification device, it shall become a permanent fixture of the occupancy and owned by the homeowner. The system shall be monitored by an approved supervising station and be maintained in accordance with NFPA 72 upper level.
2. Apartment houses, hotels, and congregate residences shall be provided with a manual and automatic fire alarm system in accordance with the requirements of locally adopted codes or the State Building Code and state fire codes.
 3. An approved carbon monoxide alarm shall be installed ~~outside of each separate sleeping area in the immediate vicinity of the bedrooms~~ in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages in the following locations:
 - a. Outside each sleeping area in the immediate vicinity of the bedrooms.
 - b. On every habitable level.
 - c. In each bedroom or its attached bathroom within which a fuel-fired appliance is located.

If more than one carbon monoxide alarm must be installed within an individual dwelling unit, the alarm devices must be interconnected to activate all alarms in the individual dwelling unit if one alarm is activated.
 4. Rooms and areas within dwelling units, basements, and attached garages in which an energy storage system is installed must be protected by smoke alarms. The smoke alarm must receive power from the premise wiring and be interconnected to any existing smoke alarm system. A heat detector listed and interconnected must be installed if a smoke alarm cannot based on its listing.

A ~~table in the appendix is offered as a~~ condensed guide is included in the appendix, and for convenience. For further information consult the locally adopted codes or the State Building Code and state fire codes.

History: Effective April 1, 2017; amended effective October 1, 2020; July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

CHAPTER 24.1-06-02 WIRING AND PROTECTION

Section

24.1-06-02-01	[Reserved]
24.1-06-02-02	[Reserved]
24.1-06-02-03	[Reserved]
24.1-06-02-04	[Reserved]
24.1-06-02-05	[Reserved]
24.1-06-02-06	[Reserved]
24.1-06-02-07	[Reserved]
24.1-06-02-08	[Reserved]
24.1-06-02-09	[Reserved]
24.1-06-02-10	(NEC 210) Branch Circuits
24.1-06-02-11	[Reserved]
24.1-06-02-12	[Reserved]
24.1-06-02-13	[Reserved]
24.1-06-02-14	[Reserved]
24.1-06-02-15	[Reserved] (NEC 215) Feeders
24.1-06-02-16	[Reserved]
24.1-06-02-17	[Reserved]
24.1-06-02-18	[Reserved]
24.1-06-02-19	[Reserved]
24.1-06-02-20	[Reserved]
24.1-06-02-21	[Reserved]
24.1-06-02-22	[Reserved]
24.1-06-02-23	[Reserved]
24.1-06-02-24	[Reserved]
24.1-06-02-25	[Reserved]
24.1-06-02-26	[Reserved]
24.1-06-02-27	[Reserved]
24.1-06-02-28	[Reserved]
24.1-06-02-29	[Reserved]
24.1-06-02-30	(NEC 230) Services
24.1-06-02-31	[Reserved]
24.1-06-02-32	[Reserved]
24.1-06-02-33	[Reserved]
24.1-06-02-34	[Reserved]
24.1-06-02-35	[Reserved]
24.1-06-02-36	[Reserved]
24.1-06-02-37	[Reserved]
24.1-06-02-38	[Reserved]
24.1-06-02-39	[Reserved]
24.1-06-02-40	(NEC 240) Overcurrent Protection
24.1-06-02-41	[Reserved]
24.1-06-02-42	[Reserved]
24.1-06-02-43	[Reserved]
24.1-06-02-44	[Reserved]
24.1-06-02-45	[Reserved]
24.1-06-02-46	[Reserved]
24.1-06-02-47	[Reserved]
24.1-06-02-48	[Reserved]
24.1-06-02-49	[Reserved]
24.1-06-02-50	(NEC 250) Grounding and Bonding

24.1-06-02-10. (NEC 210) Branch circuits.

Branch circuits shall comply with article 210, ~~2017 edition, National Electrical Code through December 31, 2020, and article 210, 2020~~2023 edition, National Electrical Code ~~thereafter~~(first version, printed in 2022).

1. The total connected load shall be divided as evenly as practicable, between the two ungrounded conductors of a three-wire system and three conductors of a four-wire wye system.
2. In a dwelling unit, a separate circuit with disconnect shall be provided for the purpose of operating or controlling electrical equipment for primary source heating units. Wiring requirements for fixed electrical space heating equipment is provided under article 424, ~~2017 edition, National Electrical Code through December 31, 2020, and article 424, 2020~~ 2023 edition, National Electrical Code, ~~thereafter~~(first version, printed in 2022).
3. A minimum of six 20-amp small appliance branch circuits shall be installed for counter receptacles in kitchens that are used to serve public gatherings at schools, churches, lodges, and similar buildings. Any island counter in these locations shall have at least one receptacle.
4. In dwelling occupancies. A minimum of three 20-amp small appliance branch circuits shall be installed to supply receptacle outlets in kitchen, pantry, dining room, and breakfast room. These circuits shall not supply other outlets and shall have conductors not smaller than no. 12. Two of these circuits shall supply receptacle outlets on or near work counter area and so arranged that adjacent receptacles are not on the same circuit.
5. In dwelling occupancies, one 20-amp bathroom circuit for receptacles shall not feed more than two bathrooms.
6. Fifteen and twenty ampere receptacles supplying sewer pumps and sump pumps shall not need arc fault circuit protection, but shall be ground-fault protected or a single receptacle on a dedicated circuit.
7. Fifteen and twenty ampere receptacles supplying power for garage door openers located in attached or detached garages associated with dwelling units shall be ground-fault protected or a single receptacle installed.
8. Portable cleaning equipment receptacle outlets shall be installed in corridors and located so that no point in the corridor along the floor line, measured horizontally, is more than twenty-five feet [7.62 meters] from an outlet.
9. Exception: ~~2017 edition, National Electrical Code through December 31, 2020, and 2020~~2023 edition, National Electrical Code ~~thereafter~~(first version, printed in 2022), article 210.11(C)(4): Requirements shall not include buildings two hundred fifty square feet [23.23 square meters] or smaller.
10. Exception: ~~2017 edition, National Electrical Code through December 31, 2020, and 2020~~2023 edition, National Electrical Code ~~thereafter~~(first version, printed in 2022), article 210.12(AB): AFCI protection is not required for the following:
 - a. Refrigeration appliances if a single receptacle on a dedicated circuit is installed;
 - b. Furnaces used for main heating source.
11. Exception: 2023 edition, National Electrical Code (first version, printed in 2022), article 210.8(A): GFCI protection shall not be required for refrigeration appliances in dwelling units if a single receptacle on an individual branch circuit is installed.

12. Exception: 2023 edition, National Electrical Code (first version, printed in 2022), article 210.52(C)(2), island and peninsular countertops and work surfaces: receptacle outlets shall be permitted to be located not more than twelve inches [30.48 centimeters] below the countertop or work surface. Receptacles installed below a countertop or work surface shall not be located where the countertop or work surface extends more than six inches [15.24 centimeters] beyond its support base.

History: Effective April 1, 2017; amended effective October 1, 2020; July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

24.1-06-02-15. ~~Reserved~~(NEC 215) Feeders.

Surge protection for feeders is not required in the following occupancies:

1. Dwelling units.
2. Dormitory units.
3. Guest rooms and guest suites of hotels and motels.
4. Areas of nursing homes and limited care facilities exclusively used as patient care sleeping rooms.

History: Effective July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

24.1-06-02-30. (NEC 230) Services.

Electrical services shall comply with article 230, ~~2017 edition, National Electrical Code, through December 31, 2020, and article 230, 2020~~2023 edition, National Electrical Code ~~thereafter~~(first version, printed in 2022).

1. Perpendicular mast used for support of a service may not be less than two-inch [5.08-centimeter] galvanized rigid steel conduit or intermediate metal conduit, fitted with storm collar flashing.
2. Outside switch location. The equipment may not be mounted lower than two feet [~~6096~~61 meter] above grade level unless listed for such purpose. ~~If installed outside, the service or services must be installed on the structure or within ten feet of the structure.~~
3. All services in single-family dwellings must be located in a single accessible location.

Exception: Special permission shall be granted by the electrical inspector for a second service location to be added where there is no available space for the service equipment. The second service location must be installed in accordance with article 230.2, ~~2017 edition, National Electrical Code, through December 31, 2020, and article 230.2, 2020~~2023 edition, National Electrical Code ~~thereafter~~(first version, printed in 2022).

4. Rating of service switch. Any new or old single-family dwelling where the main house panel or service is altered or repaired, the dwelling is moved, or where the dwelling is rewired, a minimum one hundred ampere service-rated panel must be installed. Replacement of service mast or meter enclosure is an alteration of the service.
 - a. A one hundred ampere main house panel must be installed using ungrounded conductors sized for the proper ampacity. The panel must contain provisions for a minimum of twenty full-sized branch circuit spaces.

- b. A greater than one hundred ampere but less than two hundred ampere main house panel must be installed using ungrounded conductors sized for the proper ampacity. The panel or panels must contain provisions for a minimum of thirty full-sized branch circuit spaces.
 - c. A two hundred ampere or larger main house panel must be installed using ungrounded conductors sized for the proper ampacity. The panel or panels must contain provisions for a minimum of forty full-sized branch circuit spaces.
 - d. Service and feeder calculation for electric heating loads must be sized to one hundred twenty-five percent of the full load rating.
5. For the purpose of separating services within one building, each portion of a building separated by one or more fire walls must be considered a separate building as defined by the locally adopted codes or the State Building Code and state fire codes.

~~6. 230.67 surge protections for dwelling unit services is not required.~~

History: Effective April 1, 2017¹ amended effective October 1, 2020; [July 1, 2024](#).

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

24.1-06-02-40. (NEC 240) Overcurrent protection.

Overcurrent protection must comply with article 240, ~~2017 edition, National Electrical Code through December 31, 2020, and article 240, 2020~~[2023](#) edition, National Electrical Code ~~thereafter~~[\(first version, printed in 2022\)](#).

- 1. Exterior overcurrent devices must be located at a height of no less than two feet [~~6096 meters~~,[61 meter](#)] above grade level to the bottom of the enclosure.

Exception: If raising the switch would exceed the height requirements of NEC 240.24(A).

- 2. Switchboards and panel boards may not be located in bathrooms, clothes closets, stairways, or crawl spaces, [except in a bathroom within which only a sink and toilet or similar plumbing fixture is installed. Switchboards and panel boards may not be installed within six feet \[1.83 meters\] of the edge of these plumbing fixtures.](#)

History: Effective April 1, 2017; amended effective October 1, 2020; [July 1, 2024](#).

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

24.1-06-02-50. (NEC 250) Grounding and bonding.

Grounding and bonding must conform to article 250, ~~2017 edition, National Electrical Code through December 31, 2020, and article 250, 2020~~[2023](#) edition, National Electrical Code ~~thereafter~~[\(first version, printed in 2022\)](#).

- 1. At motor connections, a bonding jumper sized in accordance with table 250.122, ~~2017 edition, National Electrical Code through December 31, 2020, and table 250.122, 2020~~[2023](#) edition, National Electrical Code ~~thereafter~~[\(first version, printed in 2022\)](#), must be provided around all flexible conduit. The bonding jumper is not required if a separate grounding conductor is included.
- 2. Grounding of metal outdoor lighting standards.
 - a. Definition of lighting standard is a pole exceeding twelve feet [3.66 meters] in height measured from the bottom of the base or from the intended grade level of poles.

- b. The metal lighting standard must be connected to a one-half inch [12.70-millimeter] by ten-foot [3.05-meter] copperweld ground rod, or twenty feet [6.10 meters] of one or more bare or zinc galvanized or other electrically conductive coated steel reinforcing bars or rods (rebar) of not less than one-half inch [1.27 centimeters] in diameter, by the means of a bonding jumper. The ten-foot [3.05-meter] ground rod must be driven in the center of the metal standard base and project slightly above the base. Both ground rod and equipment grounding conductor must be connected to the metal standards. The bonding jumper must be in accordance with ~~2017 edition, National Electrical Code through December 31, 2020, and 2020~~2023 edition, National Electrical Code thereafter (first version, printed in 2022), and in no case smaller than no. 8 copper or no. 6 aluminum.
3. The grounding electrode conductor must be connected to the grounded service conductor in the enclosure for the service disconnect.
4. Exception: If multiconductor cables are paralleled in the same raceway, auxiliary gutter, cable tray, or trench, a single equipment grounding conductor that is sized in accordance with 250.122(f)(2)(c) may be permitted in combination with the equipment grounding conductors provided within the multiconductor cables and all must be connected together.

History: Effective April 1, 2017; amended effective October 1, 2020; July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

CHAPTER 24.1-06-03

24.1-06-03-01. (NEC 300) Wiring methods.

1. Agricultural buildings. This section covers all buildings housing livestock, poultry, and other areas of similar or like nature. All electrical panel boards, wiring devices, and equipment shall be installed in accordance with the provisions of article 547, ~~2017 edition, National Electrical Code through December 31, 2020, and article 547, 2020~~2023 edition, National Electrical Code ~~thereafter~~(first version, printed in 2022).

A site-isolating device shall be permitted to be installed at the distribution point where two or more agricultural building structures are supplied from the distribution point.

2. Electric metallic tubing shall not be used in concrete below grade, in concrete slab or masonry in direct contact with earth. A vapor barrier, if used, will have no effect on the requirements of the section. Electric metallic tubing shall not be embedded in earth or fill.
3. Aluminum conduit shall not be installed in contact with earth or embedded in concrete.
4. The installation of rigid nonmetallic conduit shall comply with the provision of article 352, ~~2017 edition, National Electrical Code through December 31, 2020, and article 352, 2020~~2023 edition, National Electrical Code ~~thereafter~~(first version, printed in 2022). Expansion fittings for rigid nonmetallic conduit shall be provided to compensate for thermal expansion and contraction in accordance with article 352.44, ~~2017 edition, National Electrical Code through December 31, 2020, and article 352.44, 2020~~2023 edition, National Electrical Code ~~thereafter~~(first version, printed in 2022). When installed outdoors and above grade, one hundred forty degrees Fahrenheit [60_ degrees Celsius] shall be considered the minimum change in degrees.
5. Fertilizer rooms, meatpacking plants, salt processing plants, and similar locations are judged to be occupancies where severe corrosive conditions are likely to be present. It is recommended that nonmetallic conduit with nonmetallic boxes and fittings be used as the wiring method for such occupancies. Ferrous and nonferrous metal raceways shall be used providing the raceway, boxes, and fittings are properly protected against corrosion.
6. ~~In any room of an existing building where the sheetrock or wall covering has been removed from all walls, the electrical wiring requirements shall comply with the provisions of 2017 edition, National Electrical Code through December 31, 2020, and 2020 edition, National Electrical Code thereafter.~~
- ~~7.~~ Metal raceways or metal clad cable (type MC) rated for the environment shall be installed in the following occupancies:

- a. Hospitals;
- b. Nursing homes;
- c. Related patient care areas; and
- d. Places of assembly; ~~and~~
- ~~e. Dormitories designed to house more than sixteen people.~~

Metal raceways or metal clad cable (type MC) shall be used in fixed wiring methods including fire alarms along with metal boxes or nonmetallic raceways encased in not less than two inches of concrete.

Exception 1: As provided in ~~article 640, 2017 edition, National Electrical Code, sound reproduction and similar equipment; in article 800, 2017 edition, National Electrical Code, communication circuits; and in article 725, 2017 edition, National Electrical Code, for class 2 and class 3 remote control and signaling circuits through December 31, 2020,~~ and article 640, ~~2020~~2023 edition, National Electrical Code (first version, printed in 2022), sound reproduction and similar equipment; in article 800, ~~2020~~2023 edition, National Electrical Code (first version, printed in 2022), communication circuits; and in article 725, ~~2020~~2023 edition, National Electrical Code (first version, printed in 2022), for class 2 and class 3 remote control and signaling circuits ~~thereafter~~.

Exception 2: Listed two-hour fire-rated cables as permitted in ~~article 695.6, article 700.9D, and article 760, 2017 edition, National Electrical Code through December 31, 2020,~~ and article 695.6, ~~article 700.9D,~~ and article 760, ~~2020~~2023 edition, National Electrical Code ~~thereafter~~(first version, printed in 2022).

Adjacent areas separated by an approved fire barrier may be wired in any approved wiring method in chapter 3 of the ~~2017 edition, National Electrical Code through December 31, 2020,~~ and ~~chapter 3 of the 2020~~2023 edition, National Electrical Code ~~thereafter~~(first version, printed in 2022). For the purpose of this section, a fire barrier is defined as a continuous assembly, vertical or horizontal, in accordance with locally adopted codes or the State Building Code.

History: Effective April 1, 2017; amended effective October 1, 2020; July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

24.1-06-03-14. (NEC 314) Boxes and fittings.

1. Not more than one extension ring may be used on outlet boxes unless special permission has been obtained from the electrical inspector having jurisdiction.
2. Boxes or conduit bodies shall be installed at each opening, splice, or connection, except as provided in article 604, ~~2017 edition, National Electrical Code through December 31, 2020,~~ and ~~article 604, 2020~~2023 edition, National Electrical Code ~~thereafter~~(first version, printed in 2022).

History: Effective April 1, 2017; amended effective October 1, 2020; July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

CHAPTER 24.1-06-04

24.1-06-04-22. (NEC 422) Appliances.

Exception: ~~2017 edition, National Electrical Code, Article 422.16 through December 31, 2020, and 2020 edition, National Electrical Code, Article 422.16 thereafter: The~~ if manufacturer instructions allow the use of not more than six feet of flexible appliance cord, it shall be permitted on permanently installed one hundred twenty volt twenty amp or less fuel-fired furnaces in residential dwellings. The receptacle for this appliance shall be GFCI protected, or a single receptacle, with a lockable in-use cover, and the cord shall meet all requirements of NEC 422.16.

History: Effective April 1, 2017; amended effective October 1, 2020; July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

CHAPTER 24.1-06-05

24.1-06-05-01. (NEC 500) Hazardous locations.

1. Classification of hazardous locations is required to be completed by owner, representative, or engineer that has the qualifications and shall provide documentation as required by the provisions of article 500.4, ~~2017 edition, National Electrical Code through December 31, 2020, and article 500.4, 2020~~2023 edition, National Electrical Code (first version, printed in 2022) thereafter, including the reference standards as listed in article 500.4, ~~2017 edition, National Electrical Code through December 31, 2020, and article 500.4, 2020~~2023 edition, National Electrical Code ~~thereafter~~(first version, printed in 2022).
2. For classifications of oilfield installations refer to API RP 500, Classification of Locations for Electrical Installations at Petroleum Facilities, third edition, December 2012.
3. Surge arrestors shall be provided for all services in grain elevators.
4. Hot bearing or other similar detection systems shall be installed in accordance with articles 500-516, ~~2017 edition, National Electrical Code through December 31, 2020, and articles 500-516, 2020~~2023 edition, National Electrical Code ~~thereafter~~(first version, printed in 2022).

History: Effective April 1, 2017; amended effective October 1, 2020; July 1, 2024.

General Authority: NDCC 43-09-05

Law Implemented: NDCC 43-09-21, 43-09-22

TITLE 33.1
DEPARTMENT OF ENVIRONMENTAL QUALITY

JULY 2024

CHAPTER 33.1-12-01

33.1-12-01-04. Notification of release procedures.

Upon receiving notice of a release, the PTRCF program must:

1. Verify the tank and all other tanks owned or operated by the operator are registered with the fund.
2. Record the release information in the registration file for the location.
3. Verify the department has received proper notice of the release.
4. Send a claim denial letter to the owner or operator if the owner or operator has not registered all the tanks owned and operated by the owner or operator at the location of the release. A copy must be sent to the department's division assigned to the cleanup.
5. Obtain verification from the owner or operator ~~the affected tank, equipment, components, material, and dispenser are in compliance with state and federal regulations for the petroleum product stored and dispensed~~ that when the release was discovered, the tank was in substantial compliance, as determined under subdivision a of subsection 1 of North Dakota Century Code section 23.1-12-18, with all applicable rules of the United States environmental protection agency, the state fire marshal, and the department. If the previously mentioned tank, ~~equipment, components, material, and dispenser are noncompliant with state and federal regulations~~ was not in substantial compliance, the PTRCF program must send a claim denial letter to the owner or operator. A copy of the claim denial letter must be sent to the department's division assigned to the cleanup.
6. Send the registered owner or operator of the site an application packet and a letter outlining the procedure for filing a claim for reimbursement of corrective action if all tanks ~~are registered and, including~~ the affected tank, ~~pipings, fitting, and dispenser~~ are registered and in substantial compliance with ~~state and federal regulations~~ all applicable rules of the United States environmental protection agency, the state fire marshal, and the department for the petroleum product stored and dispensed before the release.

History: Effective October 1, 2022; amended effective July 1, 2024.

General Authority: NDCC 23.1-12-05, ~~28-32-02~~

Law Implemented: NDCC 23.1-12-10, 23.1-12-19

CHAPTER 33.1-14-01

33.1-14-01-01. Definitions.

As used in this article:

1. "Alteration" means a change in an item described on an original manufacturer's data report which affects the pressure retaining capability of the pressure retaining item. An alteration includes nonphysical changes, such as an increase in the maximum allowable internal or external working pressure, an increase in design temperature, or a reduction in minimum temperature. For boilers used in the power generation industry exceeding one hundred thousand pounds of steam per hour output, increases in steaming capacity may not be considered an alteration if a new baseline steaming capacity is established based on either an engineering evaluation or a review of the operating history and a conditional assessment of the boiler and its components. An engineering evaluation or conditional assessment must be made by the boiler owner with review and comment by the authorized inspection agency responsible for the in-service inspection of the boiler. Engineering evaluations and conditional assessments are subject to the review and approval of the chief boiler inspector.
2. "Apartments" means all multiple dwellings, including condominiums.
3. "Approved" means approved by the director.
4. "A.S.M.E. code" means the boiler and pressure vessel construction code of the American society of mechanical engineers of which sections I, II, IV, V, VIII (divisions 1, 2, and 3), IX, and X, ~~2021~~2023 edition, are hereby adopted by the director and incorporated by reference as a part of this article. A copy of the American Society of Mechanical Engineers Code is on file at the office of the boiler inspection program. The American Society of Mechanical Engineers Code may be obtained from the American Society of Mechanical Engineers headquarters at 2 Park Avenue, New York, New York 10016-5990 or from www.asme.org.
5. "Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels or from electricity or nuclear energy. The term boiler includes fired units for vaporizing liquids other than water when these units are separate from processing systems and are complete within themselves, as provided under subsection 1 of North Dakota Century Code section 23.1-16-01.
6. "Certificate inspection" means an inspection, the report of which is used by the chief boiler inspector to decide whether a certificate may be issued under North Dakota Century Code section 23.1-16-10.
7. "Certificate of competency" means a certificate issued by a jurisdiction indicating that a person has passed an examination prescribed by the national board of boiler and pressure vessel inspectors.
8. "Chief inspector" means the chief boiler inspector appointed by the director to serve in the capacity as stated by law.
9. "Condemned boiler" means a boiler that has been inspected and declared unsafe or disqualified by legal requirements by an inspector qualified to take such action who has applied a stamping or marking designating its rejection.
10. "Deputy inspector" means a boiler inspector or inspectors employed by the director to assist the chief inspector in making inspections of boilers.
11. "Director" means the director of the department of environmental quality.

12. "Existing installations" includes any boiler constructed, installed, or placed in operation before July 1, 1973.
13. "External inspection" means an inspection made when a boiler is in operation.
14. "Fusion welding" means a process of welding metals in a molten or molten and vaporous state, without the application of mechanical pressure or blows. Such welding may be accomplished by the oxyacetylene or oxyhydrogen flame or by the electric arc. Thermic welding is also classed as fusion.
15. "High-pressure, high-temperature water boiler" means a water boiler operating at pressures exceeding one hundred sixty pounds per square inch gauge [1103.17 kilopascals] or temperatures exceeding two hundred fifty degrees Fahrenheit [121.16 degrees Celsius]. For practical purposes it must be deemed the same as a power boiler.
16. "Hot water supply boiler" means a fired boiler used exclusively to supply hot water for purposes other than space heating and includes all service-type and domestic-type water heaters not otherwise exempt by North Dakota Century Code section 23.1-16-06.
17. "Inspector" means the chief boiler inspector or any deputy inspector or special inspector.
18. "Internal inspection" means an inspection made when a boiler is shut down and handholes and manholes are opened for inspection of the interior.
19. "Low pressure and heating boiler" means a boiler operated at pressures not exceeding fifteen pounds per square inch gauge [103 kilopascals] for steam or at pressures not exceeding one hundred sixty pounds per square inch gauge [1103.17 kilopascals] and temperatures not exceeding two hundred fifty degrees Fahrenheit [121.1 degrees Celsius] for water.
20. "Major repair" means a repair upon which the strength of a boiler would depend. Major repairs are those that are not of a routine nature as described in the National Board Inspection Code.
21. "Miniature boiler" means any boiler that does not exceed any of the following limits:
 - a. Sixteen inch [40.64 centimeter] inside diameter of shell.
 - b. Twenty square feet [1.86 square meter] heating surface.
 - c. Five cubic feet [.142 cubic meter] gross volume, exclusive of casing and insulation.
 - d. One hundred pounds per square inch gauge [689.48 kilopascals] maximum allowable working pressure.
22. "National board" means the national board of boiler and pressure vessel inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the chief inspectors of government jurisdictions who are charged with the enforcement of the provisions of the American Society of Mechanical Engineers Code.
23. "National Board Inspection Code" means the manual for boiler and pressure vessel inspectors supplied by the national board. The National Board Inspection Code, ~~2021~~2023 edition, is hereby adopted by the director and incorporated by reference as a part of this article. Copies of this code may be obtained from the national board at 1055 Crupper Avenue, Columbus, Ohio 43229.
24. "New boiler installations" includes all boilers constructed, installed, or placed in operation after July 1, 1973.

25. "Nonstandard boiler" means a boiler that does not bear the state stamp, the national board stamping, the American society of mechanical engineers stamp, or the stamp of any state or political subdivision which has adopted a standard of construction equivalent to that required by this article.
26. "Owner or user" means any person, firm, corporation, state, or political subdivision owning or operating any boiler that is not specifically exempt under North Dakota Century Code section 23.1-16-06 within North Dakota.
27. "Power boiler" means a closed vessel in which steam or other vapor (to be used externally to itself) is generated at a pressure of more than fifteen pounds per square inch gauge [103 kilopascals] by the direct application of heat.
28. "Reciprocal commission" means a commission issued by the director to persons who have passed a written examination prescribed by the national board and who hold a national board commission issued by the national board, or to persons who have passed the written examination prescribed by the national board and are employed by an accredited national board owner/user inspection organization.
29. "Reinstalled boiler" means a boiler removed from its original setting and re-erected at the same location or erected at a new location without change of ownership.
30. "Reinstalled pressure vessel" means a pressure vessel removed from its original setting and re-erected at the same location or erected at a new location without change of ownership.
31. "Repair" is a restoration of any damaged or impaired part to an effective and safe condition.
32. "Secondhand boiler" means a boiler of which both the location and ownership have been changed after primary use.
33. "Secondhand pressure vessel" means a pressure vessel of which both the location and ownership have been changed after primary use.
34. "Service-type or domestic-type water heater" means a fired water heater of either instantaneous or storage type, used for heating or combined heating and storage of hot water to be used exclusively for domestic or sanitary purposes, with temperatures not exceeding two hundred ten degrees Fahrenheit [98.68 degrees Celsius], and a heat input not in excess of two hundred thousand British thermal units [2.11×10^8 joules] per hour, and pressure not to exceed one hundred sixty pounds per square inch [1103.17 kilopascals].
35. "Special inspector" means an inspector regularly employed by an accredited national board authorized inspection agency or an inspector who has passed the national board examination and is employed by an accredited national board owner/user inspection organization.
36. "Standard boiler" means a boiler that bears the stamp of North Dakota or of another state that has adopted a standard of construction equivalent to that required by this article or a boiler that bears the national board stamping or American society of mechanical engineers stamp.
37. "State of North Dakota boiler construction code" is used to designate the accepted reference for construction, installation, operation, and inspection of boilers and will be referred to as this article. Anything not amended or specifically covered in this article must be considered the same as the American society of mechanical engineers code.
38. "Steam traction engines" means boilers on wheels which are used solely for show at state fairs and other exhibitions in which the public is invited to attend.

History: Effective July 1, 2020; amended effective January 1, 2022; [July 1, 2024](#).

General Authority: NDCC 23.1-16-01

Law Implemented: NDCC 23.1-16-01

TITLE 48.1
STATE BOARD OF ANIMAL HEALTH

JULY 2024

**ARTICLE 48.1-01
GENERAL ADMINISTRATION**

Chapter	
48.1-01-01	Definitions
48.1-01-02	Agents of the Board
48.1-01-03	Penalties [Repealed]
48.1-01-04	Waivers and Exemptions
48.1-01-05	Quarantines
48.1-01-06	Virulent Products
48.1-01-07	Rendering Plants - Collection of Dead Animals

CHAPTER 48.1-01-01

48.1-01-01-01. Definitions.

The terms used throughout this title have the same meaning as in North Dakota Century Code chapter 36-01. Additionally:

1. "Certificate of veterinary inspection" means a legible official regulatory certificate on an official [paper or electronic](#) form that documents the health status of an animal. It is signed by the inspecting veterinarian, who must be licensed by the state of origin and accredited by the United States department of agriculture, attesting to the veracity of the information contained within it.
2. "Designated epidemiologist" means a state or federal epidemiologist designated by the state veterinarian to make decisions about the use and interpretation of diagnostic tests and field investigation data and the management of animals.
3. "Importation permit" and "importation permit number" mean authorization obtained from the board or the state veterinarian for the movement of animals into the state and within the state as needed.
4. "State veterinarian" means the veterinarian appointed by the agriculture commissioner with the consent of the board. The state veterinarian ascertains all obtainable information in relation to diseases of animals and executes all orders and rules of the board.
5. "USDA-APHIS-VS" means United States department of agriculture, animal and plant health inspection service, veterinary services.

History: Effective July 1, 2016; [amended effective July 1, 2024.](#)

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08

**CHAPTER 48.1-01-03
PENALTIES**

[Repealed effective July 1, 2024]

Section
~~48.1-01-03-01 — Penalties~~

CHAPTER 48.1-01-05 QUARANTINES

Section

48.1-01-05-01	State Veterinarian Quarantine Authority
48.1-01-05-02	Designation and Identification of Premises
48.1-01-05-03	Quarantines <u>[Repealed]</u>
48.1-01-05-04	Identification of Exposed and Infected Animals
48.1-01-05-05	Exception to Prohibition and Notice Requirements Upon Sale or Gift of Animal Infected with or Exposed to Contagious or Infectious Disease

48.1-01-05-01. State veterinarian quarantine authority.

The board authorizes the state veterinarian to quarantine:

1. Any domestic animal or nontraditional livestock that is infected, or may be infected, with contagious or infectious disease or which has been exposed, or may be exposed, to contagious or infectious diseases.
2. Any city, civil township, county, or areas within a county in North Dakota and any enclosure, building, or any domestic animal or nontraditional livestock therein, which is infected or may be infected or exposed or may be exposed to any contagious or infectious disease.
3. Imported animals that are not in compliance with importation requirements until the disease status of the animals can be determined and all vaccination and test requirements can be verified.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-06, 36-01-12

48.1-01-05-03. Quarantines.

Repealed effective July 1, 2024.

~~—Animals imported which are not in compliance with importation requirements must be quarantined until the disease status of the animals can be determined and until all vaccination and test requirements can be verified.~~

~~**History:** Effective July 1, 2016.~~

~~**General Authority:** NDCC 36-01-08~~

~~**Law Implemented:** NDCC 36-01-12~~

CHAPTER 48.1-02-01

48.1-02-01-09. Nontraditional livestock category 2 and category 3 auction.

1. Sales of category 2 and category 3 nontraditional livestock, as defined in section 48.1-09-01-02, conducted through a process in which they are held out for sale to the public, through auction, bidding, or otherwise published or announced for sale, require a nontraditional livestock auction permit, and veterinary inspection of animals. All nontraditional livestock are subject to all other regulations while in the state.
2. The application for an auction permit must be submitted to the board at least thirty days prior to the date of auction. Once issued, the permit is valid for that event only.
3. Immediately prior to the beginning of the auction of a nontraditional livestock animal, information concerning requirements for nontraditional livestock license, disease testing, and certificates of veterinary inspection, must be provided by sales management to potential buyers.
4. All potential buyers and sellers shall register at the auction and provide nontraditional livestock license numbers, if applicable.
 - a. A ten-day grace period, in which to apply for a license, may be granted to purchasers of category 2 animals provided adequate facilities are available to house the animals.
 - b. Purchasers of category 3 animals shall have a current nontraditional livestock license for that species in place prior to taking possession of category 3 animals.
5. The nontraditional livestock auction permit holder shall ensure that an accredited veterinarian, licensed in the state, is available during the permitted nontraditional livestock auction sale.
 - a. The accredited veterinarian shall inspect the animals prior to sale on the day of sale.
 - b. Nontraditional livestock unfit for sale, as determined by the veterinarian, may not be accepted for sale or trade.
6. Auction sale operators shall submit records on all animals consigned for the auction to the board as specified in the auction permit within ten days of the date of the auction.
7. Facilities and records may be inspected by the board or its agent during standard working hours. Any documents required by the board must be provided.
8. A nontraditional livestock private treaty sale, that does not meet the above criteria, is exempt from the requirements of this chapter. However, prior to a private treaty sale of nontraditional livestock, the seller shall notify the buyer if a North Dakota nontraditional license is required.
9. Private sales or exchanges on the auction grounds on the dates of auction are prohibited.
10. The board of animal health may deny a nontraditional livestock auction permit to individuals who have failed to comply with health and recordkeeping sale requirements.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12

CHAPTER 48.1-03-01

48.1-03-01-02. Feedlot registration.

1. Any person who operates a dry lot cattle feeding operation within the confines of permanently fenced lots may make application to the chief brand inspector of the association for a registered feedlot number and permit. After the association has received application and a fee, an agent of the association, within thirty days, shall make investigation to determine that the following requirements are satisfied:
 - a. Operator's lots must be of permanently fenced dry lot status.
 - b. Operator must commonly practice feeding cattle to finish for slaughter.
2. Commercial feedlots, which custom feed cattle for other persons, and do not have ownership of the cattle, are not eligible for registered feedlot numbers and permits.
 - a. Producers intending to have cattle fed at a commercial lot may apply for a registered feedlot permit individually and the operators of a commercial lot are responsible for submitting the necessary documentation on behalf of the producers.
 - b. The association may issue a registration number and permit valid for ten years unless rescinded for cause.
3. All cattle placed in a registered feedlot must be accompanied by a brand inspection certificate. Such certificate may be a market clearance, a local brand inspection certificate, or a recognized brand inspection certificate from another state.
 - a. Cattle purchased or acquired by a registered feedlot operator from a North Dakota producer must be inspected before being mixed with other cattle and the producer shall pay inspection costs.
 - b. Cattle raised by a registered feedlot operator and placed in the operator's own feedlot must be inspected at the time they are placed in the feedlot and the regular inspection fee shall be paid by the operator.
 - c. Cattle to be placed in a registered feedlot which come from outside the state, but which are not accompanied by a brand inspection certificate, must be inspected without charge before being mixed with other cattle.
4. The operator of a registered feedlot shall maintain certain cattle inventory records. The chief brand inspector shall prescribe a permit form for this purpose. The form must show number of cattle in the lot, number sold, date and place where cattle were sold, number of cattle remaining in the lot, number of replacement cattle placed in the lot, and such other information as may be necessary, including death losses.
 - a. Cattle shipped from a registered feedlot directly to ~~market~~the final slaughter location are not subject to brand inspection or payment of inspection fees at the market. These cattle must be shipped on a chief brand inspector permit form. This form must be made in triplicate:
 - (1) One copy must be delivered to the brand inspector at the market along with shipment;
 - (2) One copy must be sent to the chief brand inspector along with the fees no later than ten days after the end of each quarter (quarters being March, June, September, December) for those cattle shipped during the previous three months; and

- (3) One copy must be retained by the operator.
- b. If the above permit form fails to accompany shipment of cattle to market, cattle are subject to inspection and regular fees must be charged for the service.
- c. The operator of a registered feedlot shall pay an annual assessment of twenty-five dollars plus fifty cents per head on each head shipped on the above permit form. Operators will be billed the twenty-five dollar portion of the annual assessment by the chief brand inspector in December for the annual assessment of the following year.
5. Cattle sold from a registered feedlot, but which are not sold for slaughter, must be inspected and the seller bears the cost of inspection at the regular fee.
6. Registered feedlots are subject to inspection at any reasonable time at the discretion of the chief brand inspector, and the operator shall show cattle inventory records and inspection certificates to cover all cattle in the operator's feedlot.
7. The chief brand inspector, for good cause, may suspend or revoke a registration.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-30

Law Implemented: NDCC 36-01-30

48.1-03-01-03. Brand inspection.

1. When cattle, horses, or mules are offered for sale at any brand inspection point, proof of ownership must be established by the shipper of the cattle, horses, or mules, either by a recorded brand, bill of sale, livestock market clearance, local inspection certificate, or an affidavit of ownership.
2. If any animal inspected bears the recorded brand of the shipper or seller and also bears a recorded brand or brands other than the recorded brand of the shipper or seller, then the shipper or seller may be required, at the discretion of the brand inspector, to establish ownership of such animal by bills of sale, market clearance, local inspection certificate, or any other satisfactory evidence of ownership.
3. A claim for feed, pasture, or gathering may not be submitted at market. All such claims must be referred to and approved for payment from proceeds of sale by the association, unless payment is authorized in writing by the owner of the brand carried by such livestock.
4. Sales agency, packing plant, and buying stations where inspection is conducted must furnish necessary help, without charge, to assist the brand inspectors in handling cattle, horses, or mules to be inspected for brands.
5. All cattle, horses, or mules entering an inspection point must be placed in pens assigned to individual sellers and must be kept separate from all other cattle, horses, or mules until inspected by the brand inspector and released for sale or shipment.
6. No cattle, horses, or mules may be inspected when loaded in trucks or after dark or by artificial light, unless approved by the chief brand inspector. The chief brand inspector may grant approval to premises which meet artificial light specifications and may extend or remove such approval.
7. The association shall provide a sufficient and competent force of brand inspectors at inspection points to conduct the brand inspection in an efficient and timely manner.
8. Brand inspectors may not inspect their own livestock.

9. Meat processing facility inspections:
 - a. The association, upon a recommendation by the chief brand inspector, shall make an inspection of any butcher shop, buying station, locker plant, or custom meat cutting and processing establishment where cattle are slaughtered or processed for the owner for a fee.
 - b. Brand inspectors, when directed to do so by the chief brand inspector, may go upon the premises of any such butcher shop, buying station, locker plant, or custom meat cutting establishment, for the purpose of making physical inspection on the premises as to the ownership or identity of animals or their carcasses.
10. Brand inspection fees and expenses are as follows:
 - a. A permanent inspection permit may be obtained from the association, for horses and mules only, by payment of a twenty-five dollar inspection fee.
 - b. A fee of one dollar and fifty cents per head on all cattle, horses, or mules subject to brand inspection at points where such inspection is maintained shall be paid by:
 - (1) The owner of the cattle, horses, or mules; or
 - (2) The commission firm, sales agency, buying station operator, or packing plant company when sold by a commission firm, sales agency, or when purchased by a buying station operator or packing plant. Upon a sale, the commission firm, sales agency, buying station operator, or packing plant company shall:
 - (a) Collect and withhold from the proceeds of such sale the inspection fee; and
 - (b) Pay the association upon demand the entire amounts collected without any deductions.
 - c. Whenever a brand inspector is required to travel to points other than the inspector's official stations to perform local brand inspection, the shipper, owner, or consignor shall pay the inspector mileage at the same rate per mile [1.61 kilometers] paid to state officials, in addition to the regular brand inspection fee.
11. The following auction markets outside the state are designated official brand inspection markets for North Dakota origin cattle, horses, and mules: Mobridge livestock auction, Mobridge, South Dakota; Lemmon livestock market, inc., Lemmon, South Dakota; Sisseton livestock sale co., Sisseton, South Dakota; ~~Britton livestock sale co., Britton, South Dakota;~~ hub city livestock sale co., Aberdeen, South Dakota; Aberdeen livestock sales, Aberdeen, South Dakota; Herreid livestock sale co., Herreid, South Dakota; Glendive livestock auction, Glendive, Montana; Sidney livestock market center, Sidney, Montana. If any of the above markets, or other markets designated by the board, where the association provides brand inspection closes for a period of three months or longer, the market must file a written request and follow the same criteria as listed for new requests for brand inspection services.
 - a. The request must be from a market within thirty-five miles of the state border, unless granted an exemption by the board.
 - b. The number of potential inspections must be at a level that is feasible for the association to hire personnel to perform the inspection services.
 - c. The auction markets must file a bond with the association in an amount to assure that any shortage of income from inspections will cover all expenses incurred in performing the services.

- d. The auction markets must agree to abide by all North Dakota livestock inspection laws and rules. Failure to do so may result in immediate suspension or revocation of brand inspection services.

History: Effective July 1, 2016; [amended effective July 1, 2024](#).

General Authority: NDCC 4.1-72-01

Law Implemented: NDCC 4.1-72-01, 4.1-73-23, 4.1-74-01, 36-05-10

CHAPTER 48.1-04-01 BISON

Section

- 48.1-04-01-01 Importation Requirements - Certificate of Veterinary Inspection - Identification - Exemptions
- 48.1-04-01-02 Importation Disease Testing and Vaccination Requirements
- 48.1-04-01-03 Disease Control
- 48.1-04-01-04 Removal or Damaging of Official Identification ~~or Brands~~

48.1-04-01-01. Importation requirements - Certificate of veterinary inspection - Identification - Exemptions.

1. Bison imported into the state must be accompanied by an official certificate of veterinary inspection except:
 - a. Bison originating directly from a producer's premises, not diverted en route, and consigned to an auction market approved by the board;
 - b. Bison consigned to a state or federally inspected slaughtering establishment;
 - c. Bison granted an exception by the board, if in the determination of the state veterinarian the animals are free of contagious or infectious diseases;
 - d. Bison leaving the state for exhibition or competition with a valid certificate of veterinary inspection may return to the state with the same certificate of veterinary inspection if the animal has not been out of the state for more than thirty days; and
 - e. Other bison as otherwise provided for by these rules.
2. Certificate of veterinary inspection for bison must include an importation permit number issued by the state veterinarian before entering the state. Bison imported on a nationally approved electronic certificate of veterinary inspection platform, not originating in an area classified as infected by contagious disease, as determined by the board or state veterinarian, may be exempt from the requirement for an importation permit number.
3. The state veterinarian may deny a request for an importation permit number if the state veterinarian has information that bison:
 - a. Have not met the disease testing, vaccination, or identification requirements set forth in North Dakota Century Code title 36 or this title, or as otherwise required by the state veterinarian;
 - b. Have not met any pre-entry quarantine conditions imposed by law;
 - c. Have been exposed to, may have been exposed to, is infected with, or may be infected with any contagious or infectious disease;
 - d. Is or may originate from an area or premises under quarantine or other form of official or regulatory action relating to contagious or infectious disease; or
 - e. May be a threat to the health and well-being of the human or animal population of the state, or both.
4. Bison entering the state must be officially identified by a method approved by the state veterinarian.

5. Bison from foreign countries must be permanently, officially identified with a method prescribed by the state veterinarian and an electronic identification compatible with the federal animal identification plan.
 - a. Bison from Canada can be imported into the state with either a CAN tattoo in an ear or a CAN brand on the right hip, as the form of permanent identification. Bison that meet United States department of agriculture electronic identification requirements may be exempt from tattoo or brand requirements.
 - b. Bison from other countries will be permanently identified as prescribed by the state veterinarian.
6. The state veterinarian may require additional disease testing, treatment, vaccination, or identification if the state veterinarian has reason to believe that other health risks are present.
7. Any bison that is infected, or recently exposed to any contagious or infectious disease, may not be imported.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12, 36-14-04.1

48.1-04-01-02. Importation disease testing and vaccination requirements.

1. Brucellosis. Bison over eighteen months of age must have a negative brucellosis test within thirty days prior to entry into the state. The following may be exempt from the brucellosis test requirement:
 - a. Steers;
 - b. Spayed females; and
 - c. Bison originating from brucellosis-free states or areas ~~that do not require North Dakota origin bison to be tested prior to entry~~, as approved by the board.
2. Scabies. Bison originating from states where, in the determination of the board, scabies treatment is necessary must be treated with a method approved by the board:
 - a. Two dippings, ten to fourteen days apart.
 - b. In lieu of dipping, bison may be treated with an approved avermectin administered by a licensed accredited veterinarian.
3. ~~Trichomonas foetus.~~
 - ~~a. Bulls over twenty-four months of age and all nonvirgin bulls over twelve months of age must have three consecutive, weekly, negative Trichomoniasis foetus culture tests or one negative PCR test prior to importation.~~
 - ~~(1) Regulatory testing must be performed in a laboratory approved by the state veterinarian.~~
 - ~~(2) No breeding is to occur between the time of the tests and the time a bull is sold, loaned, or leased.~~
 - ~~b. A certificate of veterinary inspection for bulls covered under this rule must bear one of the following statements:~~

~~"Trichomonas foetus has not been diagnosed in the herd of origin."~~

~~or~~

~~"The bull(s) represented on this Certificate of Veterinary Inspection have three consecutive negative Trichomonas foetus culture tests that were at least a week apart or one negative PCR test within sixty days prior to entry and there has been no female contact since the first qualifying test."~~

~~c. The following may be exempt from Trichomonas foetus testing:~~

- ~~(1) Virgin bulls aged twenty-four months of age or less. A signed statement from the owner or manager stating that bulls have had no potential breeding contact with females must be listed on certificate of veterinary inspection.~~
- ~~(2) Bulls imported into the state for immediate slaughter only or those consigned directly to a licensed slaughter establishment or to a licensed livestock market and then directly to a licensed slaughter establishment.~~
- ~~(3) Bulls imported into the state and held in confinement, including exhibition and/or rodeo purposes, based upon a risk assessment by the state veterinarian.~~
- ~~(4) Bulls imported as part of a state veterinarian approved seasonal grazing operation without change of ownership, based upon a risk assessment by the state veterinarian.~~
- ~~(5) Bulls used in semen collection operations, based upon a risk assessment by the state veterinarian.~~

~~4. Tuberculosis.~~

- a. Bison entering the state must be accompanied by documentation that each animal was tested for tuberculosis within thirty days prior to entry into the state, and that the results of the test were negative for tuberculosis.
 - (1) Bison, sixty days of age or older, that originate from any area, where in the determination of the board, tuberculosis may exist, must:
 - (a) Be negative to an official test for tuberculosis within thirty days prior to entering the state; or
 - (b) Originate from a tuberculosis accredited-free herd (date of last test and accredited herd number listed on certificate of veterinary inspection).
- b. The following may be exempt from the tuberculosis test requirement:
 - (1) Nursing calves accompanying negative-tested dams.
 - (2) Bison originating from tuberculosis-free states or areas ~~that do not require North Dakota origin bison to be tested prior to entry~~, as approved by the board.
 - (3) Steers and spayed females that are:
 - (a) Officially identified prior to entry;
 - (b) Listed by official identification individually on a certificate of veterinary inspection; and

- (c) Have undergone an epidemiological risk assessment and determined to be low risk by the state veterinarian.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08, 36-01-12

Law Implemented: NDCC 36-01-08, 36-01-12, 36-14-04.1

48.1-04-01-03. Disease control.

1. Anthrax.
 - a. Bison located on farms where anthrax has been diagnosed must be vaccinated. Bison must be quarantined for thirty days after the death of the last animal or thirty days following vaccination, whichever occurs last.
 - b. Sale of hides removed from bison infected with anthrax is prohibited.
2. Brucellosis.
 - a. The recommended brucellosis eradication uniform methods and rules as they appear in publication of USDA-APHIS-VS are hereby adopted and constitute a rule of the board, unless otherwise ordered by the board.
 - b. Condemnation of infected bison.
 - (1) The state veterinarian shall determine when an animal is infected with brucellosis, and if infected, shall condemn the animal.
 - (2) Bison which are condemned due to brucellosis must be marked in accordance with a method prescribed by the state veterinarian.
 - (3) Animals must be slaughtered within thirty days following condemnation.
 - c. Brucellosis vaccination of calves.
 - (1) Female bison animals may be vaccinated from four through ~~twelve~~eighteen months (one hundred twenty through ~~three hundred sixty-five~~five hundred forty-seven days) of age with a vaccine approved by the state veterinarian.
 - (2) Vaccinated animals must be marked in accordance with a method approved by the state veterinarian.
 - (3) The ~~state~~state accredited veterinarian shall submit reports of vaccination, on the appropriate form provided by USDA-APHIS-VS, to the board within thirty days.
 - d. Sale of bison out of brucellosis-infected herds. Herds of bison infected with brucellosis must be quarantined, with the quarantine prohibiting sale of all intact bulls and females except to licensed, monitored feedlots or for slaughter under written permit. Such bison must be held separate and apart. The state veterinarian may grant an exception by official permit as provided in this section.
3. Tuberculosis.
 - a. Uniform methods and rules - Tuberculosis. The current uniform methods and rules on bison tuberculosis eradication as they appear in publication of USDA-APHIS-VS are hereby adopted and constitute a rule of the board, unless otherwise ordered by the board.

- b. Condemnation of infected bison.
 - (1) The state veterinarian shall determine when an animal is infected with tuberculosis, and if infected, shall condemn the animal.
 - (2) All bison that are determined to be infected with tuberculosis must be marked in accordance with a method prescribed by the state veterinarian.
 - (3) All animals must be slaughtered within thirty days following condemnation.
- c. Reactors to tuberculosis must be accompanied by the proper official permit and are to be slaughtered in slaughter establishments under the supervision of the federal government or in another facility approved by the state veterinarian.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08

48.1-04-01-04. Removal or damaging of official identification ~~or brands.~~

Official identification ~~or brands~~ may not be removed or tampered with without approval by the state veterinarian.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC ~~33-01-08~~ 36-01-08

CHAPTER 48.1-05-01 CATTLE

Section

- 48.1-05-01-01 Importation Requirements - Certificate of Veterinary Inspection - Identification - Exemptions
- 48.1-05-01-02 Importation Disease Testing and Vaccination Requirements
- 48.1-05-01-03 Disease Control
- 48.1-05-01-04 Removal or Damaging of Official Identification ~~or Brands~~

48.1-05-01-01. Importation requirements - Certificate of veterinary inspection - Identification - Exemptions.

1. Cattle imported into the state must be accompanied by an official certificate of veterinary inspection except:
 - a. Cattle originating directly from a producer's premises, not diverted en route, and consigned to an auction market approved by the board;
 - b. Cattle consigned to a state or federally inspected slaughtering establishment;
 - c. Cattle granted an exception by the board, if in the determination of the state veterinarian the animals are free of contagious or infectious diseases;
 - d. Cattle leaving the state for exhibition or competition with a valid certificate of veterinary inspection may return to the state with the same certificate of veterinary inspection if the animal has not been out of the state for more than thirty days; and
 - e. Other cattle as otherwise provided for by these rules.
2. ~~Certificate~~Certificates of veterinary inspection for cattle must include an importation permit number issued by the state veterinarian before entering the state. Cattle imported on an approved electronic certificate of veterinary inspection platform, not originating in an area classified as infected with contagious disease by the board or state veterinarian, may be exempt from the requirement for an importation permit number.
3. The state veterinarian may deny a request for an importation permit number if the state veterinarian has information that cattle:
 - a. Have not met the disease testing, vaccination, or identification requirements set forth in North Dakota Century Code title 36 or this title, or as otherwise required by the state veterinarian;
 - b. Has not met any pre-entry quarantine conditions imposed by law;
 - c. Has been exposed to, may have been exposed to, is infected with, or may be infected with any contagious or infectious disease;
 - d. Is or may originate from an area or premises under quarantine or other form of official or regulatory action relating to contagious or infectious disease; or
 - e. May be a threat to the health and well-being of the human or animal population of the state, or both.
4. Cattle entering the state must be officially identified by a method approved by the state veterinarian.

5. Cattle from foreign countries must be permanently officially identified with a method prescribed by the state veterinarian and an electronic identification compatible with the federal animal identification plan.
6. The state veterinarian may require additional disease testing, treatment, vaccination, or identification if the state veterinarian has reason to believe that other health risks are present.
7. Cattle infected, or recently exposed to any contagious or infectious disease, may not be imported.
8. Calves, under four months of age, not accompanying dams, may not be resold within sixty days of importation. Purchasers shall take possession of imported calves at the premises of the seller.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12, 36-14-04.1

48.1-05-01-02. Importation disease testing and vaccination requirements.

1. Brucellosis.

~~a. Female cattle over twelve months of age. No female cattle over twelve months (three hundred sixty-five days) of age may be imported unless officially calfhood vaccinated against brucellosis. Female cattle imported for exhibition purposes are exempt from this requirement.~~ Test-eligible cattle, as determined by the board, must have a negative brucellosis test within thirty days prior to entry into North Dakota and must comply with uniform methods and rules in control of brucellosis as published by USDA-APHIS-VS.

~~b. Test-eligible cattle, as determined by the board, must have a negative brucellosis test within thirty days prior to entry into North Dakota and must comply with uniform methods and rules in control of brucellosis as published by USDA-APHIS-VS. A valid test for brucellosis must be a blood test conducted by a state or federal laboratory or by a veterinarian approved in the state of origin.~~

~~c. Exemption. The board may exempt the following cattle:~~

~~(1) Steers;~~

~~(2) Spayed females; and~~

~~(3) Cattle affected by drought conditions when:~~

~~(a) Drought conditions render pasture and feed supplies inadequate for North Dakota producers to maintain their breeding herds;~~

~~(b) It is necessary that North Dakota cattle producers secure out-of-state grazing or feeding facilities for their breeding herds; and~~

~~(c) The cattle are owned by North Dakota cattle producers with the intent to return the cattle to the North Dakota producers' premises upon completion of the grazing or feeding period.~~ A valid test for brucellosis must be a blood test conducted by a state or federal laboratory or by a veterinarian approved in the state of origin.

2. Scabies.

- a. Cattle originating from states where, in the determination of the board, scabies treatment is necessary must be treated with a method approved by the board:
 - (1) Two dippings, ten to fourteen days apart.
 - (2) In lieu of dipping, cattle may be treated with an approved avermectin administered by a licensed accredited veterinarian.
 - b. Scabies affected or exposed cattle must be quarantined and treated with an approved avermectin.
3. Trichomonas foetus.
- a. Bulls over twenty-four months of age and all nonvirgin bulls over twelve months of age must have three consecutive, weekly, negative Trichomoniasis foetus culture tests or one negative PCR test prior to importation.
 - (1) Regulatory testing must be performed in a laboratory approved by the state veterinarian.
 - (2) No breeding is to occur between the time of the tests and the time a bull is sold, loaned, or leased.
 - b. A certificate of veterinary inspection for bulls covered under this rule must bear one of the following statements:
 - "Trichomonas foetus has not been diagnosed in the herd of origin."
 - or
 - "The bull(s) represented on this Certificate of Veterinary Inspection have three consecutive negative Trichomonas foetus culture tests that were at least a week apart or one negative PCR test within sixty days prior to entry and there has been no female contact since the first qualifying test."
 - c. No nonvirgin and nonpregnant female cattle may be imported for breeding or grazing purposes into the state.
 - d. The following may be exempt from Trichomonas foetus testing or importation restriction:
 - (1) Virgin bulls aged twenty-four months of age or less. A signed statement from the owner or manager stating that bulls have had no potential breeding contact with females must be listed on certificate of veterinary inspection.
 - (2) Bulls imported into the state for immediate slaughter only or those consigned directly to a licensed slaughter establishment or to a licensed livestock market and then directly to a licensed slaughter establishment.
 - (3) Bulls imported into the state and held in confinement, including exhibition and/or rodeo purposes, based upon a risk assessment by the state veterinarian.
 - (4) Bulls imported as part of a state veterinarian-approved seasonal grazing operation without change of ownership, based upon a risk assessment by the state veterinarian.
 - (5) Nonvirgin and nonpregnant female cattle to be used in confined dairy operations, based upon a risk assessment by the state veterinarian.

- (6) Nonvirgin and nonpregnant female cattle, each accompanied by its own offspring and prior to rebreeding.
 - (7) Cattle used in embryo transplant or semen collection operations, based upon a risk assessment by the state veterinarian.
4. Tuberculosis.
- a. Dairy breed cattle sixty days of age or older, other than steers and spayed heifers, must be negative to an official test for tuberculosis within thirty days prior to entering the state.
 - b. United States-born cattle used for rodeo or timed events must have a negative bovine tuberculosis test within the last twelve months prior to importation into the state.
 - c. Cattle of Mexican origin, M-branded or MX-branded, entering the state, must be accompanied with proof of two negative bovine tuberculosis tests by USDA-accredited veterinarians with the last test within sixty days prior to importation into the state.
 - (1) Cattle of Mexican origin need a negative whole herds tuberculosis test on the birth herd of origin.
 - (2) Cattle of Mexican origin require 484 electronic identification tags, or another United States department of agriculture-approved electronic method that clearly indicates they are Mexican origin, for identification.
 - d. Cattle entering the state that originate from any modified accredited state, or any other area where in the determination of the board tuberculosis may exist, must be accompanied by documentation that each animal was tested for tuberculosis within thirty days prior to entry into the state, and that the results of the test were negative for tuberculosis. The following may be exempt from the tuberculosis test requirement, but must still be officially identified:
 - (1) Steers;
 - (2) Spayed females;
 - (3) Cattle originating from a tuberculosis accredited-free herd;
 - (4) Cattle originating from a closed herd which have been whole-herd tested negative for tuberculosis within twelve months prior to importation; and
 - (5) Nursing calves accompanying negative-tested dams.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08, 36-01-12

Law Implemented: NDCC 36-01-08, 36-01-12, 36-14-01, 36-14-04.1

48.1-05-01-03. Disease control.

- 1. Anthrax.
 - a. Cattle susceptible to anthrax located on farms where anthrax has been diagnosed must be vaccinated. Animals shall be quarantined for thirty days after the death of the last animal or thirty days following vaccination, whichever occurs last.
 - b. Sale of hides removed from cattle infected with anthrax is prohibited.
- 2. Brucellosis.

- a. The recommended brucellosis eradication uniform methods and rules as they appear in publication of USDA-APHIS-VS are hereby adopted and constitute a rule of the board, unless otherwise ordered by the board.
 - b. Condemnation of infected cattle.
 - (1) The state veterinarian shall determine when an animal is infected with brucellosis, and if infected, shall condemn the animal.
 - (2) Cattle that are condemned due to brucellosis must be marked in accordance with a method prescribed by the state veterinarian.
 - (3) Animals must be slaughtered within thirty days following condemnation.
 - c. Brucellosis vaccination of calves.
 - (1) Female bovine animals may be vaccinated from four through twelve months (one hundred twenty through three hundred sixty-five days) of age with a vaccine approved by the state veterinarian.
 - (2) Vaccinated animals must be marked in accordance with a method approved by the state veterinarian.
 - (3) ~~The state~~An accredited veterinarian shall submit reports of vaccination on the appropriate form provided by USDA-APHIS-VS, to the board within thirty days.
 - d. Sale of cattle out of brucellosis-infected herds. Herds of cattle infected with brucellosis must be quarantined, with the quarantine prohibiting sale of all intact bulls and females, except to licensed, monitored feedlots or for immediate slaughter, under written permit. Such cattle must be held separate and apart. The state veterinarian may grant an exception to the quarantine by official permit based upon an epidemiological risk assessment.
 - e. Collection of milk or cream samples. Collection of milk and cream samples for conducting the brucellosis ring test is required. A producer of cream or milk shall furnish samples of the cream or milk to an agent of the board and, upon request, shall allow board agents to enter the premises and collect samples.
3. Tuberculosis.
- a. Uniform methods and rules - Tuberculosis. The current uniform methods and rules on bovine tuberculosis eradication as they appear in publication of USDA-APHIS-VS are hereby adopted and constitute a rule of the board, unless otherwise ordered by the board.
 - b. Condemnation of infected cattle.
 - (1) The state veterinarian shall determine when an animal is infected with tuberculosis, and if infected, shall condemn the animal.
 - (2) Cattle that are determined to be infected with tuberculosis must be marked in accordance with a method prescribed by the state veterinarian.
 - (3) Animals must be slaughtered within thirty days following condemnation.

- c. Reactors to tuberculosis must be accompanied by the proper official permit and are to be slaughtered in slaughter establishments under the supervision of the federal government or in another facility approved by the state veterinarian.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08

48.1-05-01-04. Removal or damaging of official identification-~~of brands~~.

Official identification-~~of brands~~ may not be removed or tampered with without approval by the state veterinarian.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08

CHAPTER 48.1-06-01 EQUINE

Section

- 48.1-06-01-01 Importation Requirements - Certificate of Veterinary Inspection - Identification - Exemptions
- 48.1-06-01-02 Importation Disease Testing Requirements
- 48.1-06-01-03 Disease Control
- 48.1-06-01-04 Removal or Damaging of Official Identification ~~or Brands~~

48.1-06-01-01. Importation requirements - Certificate of veterinary inspection - Identification - Exemptions.

1. Equine species imported into the state must be accompanied by an official certificate of veterinary inspection except:
 - a. Equine species consigned to a state or federally inspected slaughter establishment;
 - b. Other equine species as otherwise provided for by these rules;
 - c. Equine species granted an exception by the board; and
 - d. Equine species leaving the state for exhibition or competition with a valid certificate of veterinary inspection may return to the state with the same certificate of veterinary inspection if the animal has not been out of the state for more than thirty days.
2. Certificate of veterinary inspection for equine species ~~must include~~ do not require an importation permit ~~number issued by the state veterinarian before entering the state~~ unless a state or area has been identified with infectious disease or potential threat to animal or public health as determined by the board or state veterinarian.
3. The state veterinarian may deny a request for an importation permit number if the state veterinarian has information that an equine:
 - a. Has not met the disease testing, vaccination, or identification requirements set forth in North Dakota Century Code title 36 or this title, or as otherwise required by the state veterinarian;
 - b. Has not met any pre-entry quarantine conditions imposed by law;
 - c. Has been exposed to, may have been exposed to, is infected with, or may be infected with any contagious or infectious disease;
 - d. Is or may originate from an area or premises under quarantine or other form of official or regulatory action relating to contagious or infectious disease; or
 - e. May be a threat to the health and well-being of the human or animal population of the state, or both.
4. The state veterinarian may require additional disease testing, treatment, vaccination, or identification if the state veterinarian has reason to believe that other health risks are present.
5. An equine species that is infected, or recently exposed to any infectious or contagious disease, may not be imported.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08, 36-14-04.1

Law Implemented: NDCC 36-01-08, 36-01-12

48.1-06-01-03. Disease control.

1. Anthrax.
 - a. Equine species susceptible to anthrax located on farms where anthrax has been diagnosed must be vaccinated. Equine species must be quarantined for thirty days after the death of the last animal or thirty days following vaccination, whichever occurs last.
 - b. Sale of hides removed from equine species infected with anthrax is prohibited.
2. Equine infectious anemia. Equine species testing and confirmed positive for equine infectious anemia must be:
 - a. ~~Positively and individually identified in accordance with a permanent marking method prescribed by the state veterinarian~~Euthanized and the carcass disposed of in an approved manner;
 - b. ~~Accompanied by an official permit~~If not euthanized, the animal must be positively and individually identified in accordance with a permanent marking method prescribed by the state veterinarian; and
 - c. ~~Held separate and apart from all equine species~~Maintained under permanent quarantine separate and apart from all equine species in a manner consistent with the current recommendations outlined in the United States department of agriculture equine infectious anemia uniform methods and rules.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12

48.1-06-01-04. Removal or damaging of official identification ~~or brands~~.

Official identification ~~or brands~~ may not be removed or tampered with without approval by the state veterinarian.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08

CHAPTER 48.1-07-01

48.1-07-01-01. Definitions.

The terms used throughout this title have the same meaning as in North Dakota Century Code chapter 36-01. Additionally:

1. "Farmed elk" mean mammals of the elk genus and species cervus candensis, formerly a subspecies of cervus elaphus. Red deer (cervus elaphus) are not farmed elk.

2. "Herd" means two or more elk, or a herd of elk commingled with other hoof stock maintained on common ground, or two or more herds of elk and other hoof stock under common ownership or supervision which are geographically separated, but can have an interchange or movement without regard to health status.

~~2:3.~~ "Trace herd" means a herd in which an animal affected by chronic wasting disease has resided up to sixty months before its death, or any herd that has received animals from an affected herd within sixty months prior to the death of the affected animal.

~~3.~~ "Zone 1" means that area bordered by a line that begins at the junction of the Montana border and Missouri River, runs east along the Missouri River to state highway 49, south to state highway 21, west to state highway 22, to the Slope-Bowman County line, and west to Montana.

~~4.~~ "Zone 2" means that area bordered by a line that begins at the Minnesota state line on United States highway 2 and runs west to Towner and north along the Souris River to the Canadian border.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-25-02

Law Implemented: NDCC 36-25-02

48.1-07-01-07. Identification.

1. Farmed elk must be individually identified with two forms of identification as prescribed by the state veterinarian. The form of identification must be permanent and unique to each animal. The One form of permanent identification must be an official tag or other form approved by the state veterinarian.

2. When loss of an animal identification is discovered, the animal must be identified with approved identification as soon as reasonably possible.

3. Identification assigned to an individual farmed elk may not be transferred to any other animal.

4. Newborn farmed elk must be individually identified prior to removal of the animal from the farmed elk premises or within twelve months of birth, whichever comes first.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-25-02

Law Implemented: NDCC 36-25-08

48.1-07-01-09. Bill of sale and transportation.

1. Farmed elk to be transferred, bought, or sold must have an itemized bill of sale, certificate of veterinary inspection, or manifest at transfer of ownership that must include individual official identification, species, age, sex, number of animals, buyer and seller and their respective

addresses, date of sale, and farmed elk facility numbers. All manifests and bills of sale must be submitted to the board within ~~fourteen~~seven days of the occurrence.

2. Farmed elk transported within the state, which have been harvested on a private elk farm, must be accompanied by a bill of sale if there is a change of ownership.
3. Farmed elk may be transported from out of state through the state only if:
 - a. Animals proceed directly through the state and the owner or transporter does not unload the animals; and
 - b. Animals are not sold, bartered, traded, or otherwise transferred while in the state. Transfer does not include moving animals to another transport vehicle.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-25-02

Law Implemented: NDCC 36-25-02, 36-25-08, 36-25-10

CHAPTER 48.1-07-02 IMPORTATION REQUIREMENTS

Section

48.1-07-02-01 Importation Requirements

48.1-07-02-02 Genetic Purity Requirements for Interstate and Intrastate Movement [Repealed]

48.1-07-02-01. Importation requirements.

Farmed elk may be imported into the state only after the owner of the farmed elk:

1. Obtains a certificate of veterinary inspection. The certificate of veterinary inspection must include specific disease test results, vaccinations, and health statements required by this chapter;
2. Obtains an importation permit number from the office of the state veterinarian. The state veterinarian may deny a request for an importation permit number if the state veterinarian has information that a farmed elk:
 - a. Has not met the disease testing, vaccination, or identification requirements set forth in North Dakota Century Code title 36 or this title, or as otherwise required by the state veterinarian;
 - b. Has not met any pre-entry quarantine conditions imposed by law;
 - c. Has been exposed to, may have been exposed to, is infected with, or may be infected with any contagious or infectious disease;
 - d. Is or may originate from an area or premises under quarantine or other form of official or regulatory action relating to contagious or infectious disease; ~~or~~
 - e. May be a threat to the health and well-being of the human or animal population of the state, or both; or
 - f. Is a red deer hybrid.
3. ~~Submits to the office of the state veterinarian the genetic purity test results in compliance with 48.1-07-02-02. The genetic purity test results must be included with the certificate of veterinary inspection.~~ The certificate of veterinary inspection must include or be accompanied by an owner-signed statement: "The elk on this certificate are not red deer hybrids.";
4. Submits to the office of the state veterinarian a chronic wasting disease risk assessment form in compliance with subsection 2 of 48.1-07-03-01, unless the state veterinarian waives such requirement under subsection 2 of 48.1-07-03-01; and
5. Completes and submits satisfactory proof of additional disease testing or vaccinations as may be required from the office of the state veterinarian if the state veterinarian has reason to believe other diseases, parasites, or other health risks are present.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-25-02

Law Implemented: NDCC 36-14-04.1, 36-25-02

48.1-07-02-02. Genetic purity requirements for interstate and intrastate movement.

Repealed effective July 1, 2024.

~~—A person may not import farmed elk into zone 1 or zone 2 from points outside the state or move farmed elk into zone 1 or zone 2 from points inside the state unless the farmed elk are genetically pure. An importation permit from the office of the state veterinarian may be required for such movement.~~

~~—1.— Genetic testing for purity is required for all farmed elk before such animals may enter zone 1 or zone 2.~~

~~—2.— A person may not transport, attempt to transport, accept, or receive farmed elk into zone 1 or zone 2 until the person making application for the permit furnishes sufficient proof to the state veterinarian's office that the elk are genetically pure.~~

~~—3.— Farmed elk registered as genetically pure by a farmed elk association recognized by the board may be exempt from genetic testing requirements.~~

History: Effective July 1, 2016.

General Authority: NDCC 36-25-02

Law Implemented: NDCC 36-25-02

CHAPTER 48.1-07-03

48.1-07-03-01. Importation disease testing requirements.

1. Brucellosis.
 - a. Sexually intact farmed elk six months of age and older must test negative for brucellosis by two different official tests prescribed by the state veterinarian, administered within thirty days prior to importation into the state. The following exemptions may apply:
 - (1) Farmed elk originating from certified brucellosis-free cervid herds may be exempt from testing requirements.
 - (2) Farmed elk originating from brucellosis-monitored cervid herds, must test negative for brucellosis by two different official tests within ninety days prior to importation into the state.
 - (3) Farmed elk originating from states recognized as "free" under the USDA-APHIS brucellosis eradication program.
 - b. Additional testing may be required at the discretion of the state veterinarian or in accordance with the uniform methods and rules for the control of brucellosis in cervidae as published by USDA-APHIS-VS.
2. Chronic wasting disease requirements:
 - a. Farmed elk must pass a satisfactory risk assessment for chronic wasting disease, conducted by the office of the state veterinarian. The office of the state veterinarian will notify an applicant submitting a chronic wasting disease risk assessment form of the decision within ten days of the form submission. Persons seeking an importation permit for these species must ship the animals within thirty days of approval from the office of the state veterinarian. After thirty days, a new risk assessment form application must be submitted and approved prior to shipment.
 - b. The office of the state veterinarian may waive the requirement for a risk assessment if:
 - (1) The risks to be assessed are minimal and the person applying for the importation permit has met all other statutory and rule requirements; or
 - (2) The herd of origin has been under surveillance for chronic wasting disease for at least sixty months. The surveillance must meet the standards prescribed by the state veterinarian.
 - c. The following statement must be verified on the certificate of veterinary inspection for farmed elk by the herd veterinarian:

"These animals and the herd they originate from have no history of emaciation, depression, excessive salivation or thirst, or neurological disease. In the event of these symptoms, appropriate diagnostic measures were taken to rule out a transmissible spongiform encephalopathy. These animals have not been exposed to an elk or deer diagnosed positive for a transmissible spongiform encephalopathy."
 - d. No farmed elk may be imported from a herd where chronic wasting disease has been diagnosed or a herd that has had chronic wasting disease traced to it unless that herd has undergone sixty months of surveillance after the last case of or exposure to chronic wasting disease. The surveillance must meet the standards prescribed by the state veterinarian.

3. Paratuberculosis (Johne's disease). The following statement, signed by an accredited veterinarian in the state or province of origin, must appear on the certificate of veterinary inspection:

"To the best of my knowledge, animals listed herein are not infected with paratuberculosis (Johne's disease) and have not been exposed to animals infected with paratuberculosis."

4. Tuberculosis.

- a. Minimum specific disease test results and health statements that must be included on a certificate of veterinary inspection include:

- (1) Tuberculosis requirements for states with tuberculosis-modified accredited cervid status:

- (a) Farmed elk that are moved directly to slaughter at an approved slaughtering establishment do not require tuberculosis testing.

- (b) Farmed elk from a herd with a current accredited-free cervid status for tuberculosis may be moved to any approved elk facility provided that they meet the following requirements:

- [1] Farmed elk are accompanied by a certificate stating the accredited herd completed the testing necessary for accredited status with negative results within thirty-six months prior to the movement.

- [2] Farmed elk, except animals nursing negative-tested dams, originating in a state or zone lacking bovine accredited-free status must test negative to an official test for bovine tuberculosis within ninety days of movement or consignment.

- (c) Farmed elk from a farmed elk tuberculosis-qualified herd may be moved to any approved elk facility provided they meet the following requirements:

- [1] Farmed elk are accompanied by a certificate stating all animals in the movement, except animals nursing negative-tested dams, were negative to an official test for bovine tuberculosis conducted within six months prior to the movement.

- [2] Farmed elk, except animals nursing negative-tested dams, originating in a state or zone lacking bovine accredited-free status must test negative to an official test for bovine tuberculosis within ninety days of movement or consignment.

- (d) Farmed elk from a farmed elk tuberculosis-monitored herd may be moved to any approved elk facility provided the farmed elk are accompanied by a certificate stating that all animals in the movement, except animals nursing negative-tested dams, were negative to an official test for bovine tuberculosis conducted within ninety days prior to the movement.

- (e) Farmed elk from herds of unknown cervid tuberculosis status may be moved to any approved elk facility provided they meet the following requirements:

- [1] Farmed elk are accompanied by a certificate stating all animals in the movement, except animals nursing negative-tested dams, were negative to two official tests for bovine tuberculosis. The required test must be

conducted not less than ninety days apart and with the second test conducted within ninety days of the movement.

[2] Farmed elk, except animals nursing negative-tested dams, in a consignment that is being moved from a herd located in a state or zone lacking accredited-free status for bovine tuberculosis must be from a herd that has had a negative official test for bovine tuberculosis within twelve months prior to the movement. All farmed elk in the movement, except animals nursing negative-tested dams, must be negative to a second official test for bovine tuberculosis conducted within ninety days prior to the movement unless the herd of origin herd test was conducted within ninety days prior to the movement.

b. Tuberculosis requirements for states without tuberculosis-modified accredited cervid status may be subject to additional importation requirements at the discretion of the state veterinarian.

History: Effective July 1, 2016; [amended effective July 1, 2024](#).

General Authority: NDCC 36-01-08, 36-25-02

Law Implemented: NDCC 36-01-08, 36-01-12, 36-25-02

CHAPTER 48.1-07-04

48.1-07-04-01. Disease control.

1. Anthrax.
 - a. Farmed elk susceptible to anthrax located on farms where anthrax has been diagnosed must be vaccinated. Farmed elk must be quarantined for thirty days after the death of the last animal or thirty days following vaccination, whichever occurs last.
 - b. Sale of hides removed from farmed elk infected with anthrax is prohibited.
2. Brucellosis.
 - a. The recommended brucellosis eradication uniform methods and rules as they appear in publication of the USDA-APHIS-VS are hereby adopted and constitute a rule of the board, unless otherwise ordered by the board.
 - b. Condemnation of infected farmed elk.
 - (1) The state veterinarian shall determine when an animal is infected with brucellosis, and if infected, shall condemn the animal.
 - (2) Farmed elk that are condemned due to brucellosis must be marked in accordance with a method prescribed by the state veterinarian.
 - (3) Animals must be slaughtered within thirty days following condemnation.
 - c. Brucellosis vaccination of calves.
 - (1) Female farmed elk may be vaccinated from four through twelve months (one hundred twenty through three hundred sixty-five days) of age with a vaccine approved by the state veterinarian.
 - (2) Vaccinated animals must be marked in accordance with a method approved by the state veterinarian.
 - (3) The state veterinarian shall submit reports of vaccination on the appropriate form provided by USDA-APHIS-VS, to the board within thirty days.
 - d. Sale of farmed elk out of brucellosis-infected herds. Herds of farmed elk infected with brucellosis must be quarantined, with the quarantine prohibiting sale of all intact bulls and females, except to licensed, monitored feedlots or for slaughter, under written permit. Such farmed elk must be held separate and apart. The state veterinarian may grant an exception to the quarantine by official permit based upon an epidemiological risk assessment.
3. Chronic wasting disease.
 - a. If any farmed elk twelve months of age or older die for any reason, the owner shall submit the appropriate sample to an approved laboratory for chronic wasting disease surveillance as soon as practicable. Official identification must accompany the sample to the laboratory.
 - b. A chronic wasting disease diagnosis will be based on postmortem sample testing confirmed by the national veterinary services laboratory.
 - c. The state veterinarian may grant exemptions to this surveillance.

- d. Herd disposition upon diagnosis with chronic wasting disease.
- (1) A herd containing farmed elk diagnosed with chronic wasting disease, or that has had chronic wasting disease traced back to the herd, must be quarantined until the herd is depopulated or until a herd plan is established.
 - (2) If depopulation is not practicable, the owner and the state veterinarian shall develop a herd plan according to the following:
 - (a) If the herd displays no evidence of disease transmission within the herd as determined by an epidemiological investigation by the state veterinarian or a validated test, the herd plan must include provisions for:
 - [1] Herd inspection by board agents;
 - [2] Herd inventory with annual verification;
 - [3] Herd surveillance (mandatory death reporting and chronic wasting disease testing for sixty months from the last case or exposure);
 - [4] Separation of high-risk animals (high-risk animals are pen mates of an affected animal for one year prior to the death of the affected animal and all animals related to the affected animal); and
 - [5] All high-risk animals must be quarantined for sixty months from the last case or exposure or euthanized and tested for chronic wasting disease.
 - (b) If the herd displays evidence of disease transmission within the herd as determined by an epidemiological investigation by the state veterinarian or a validated test, the herd plan must include provisions for:
 - [1] Herd inspection by board agents;
 - [2] Herd surveillance (mandatory death reporting and chronic wasting disease testing for sixty months from the last case or exposure);
 - [3] Separation of high-risk animals;
 - [4] High-risk animals must be quarantined for sixty months from the last case or exposure; and
 - [5] The entire herd must be quarantined for sixty months from the last case or exposure.
 - (c) If the herd is a trace herd as determined by an epidemiological investigation by the state veterinarian or a validated test, the herd plan must include provisions for:
 - [1] Herd inspection by board agents;
 - [2] Herd inventory with annual verification;
 - [3] Herd surveillance (mandatory death reporting and chronic wasting disease testing for sixty months from the last case or exposure); and
 - [4] Separation of high-risk animals and quarantine for sixty months from the last exposure or death of high-risk animals and testing for chronic wasting disease.

e. Management of herds containing animals diagnosed with, exposed to, or potentially exposed to chronic wasting disease may be adjusted based upon epidemiological investigation and guidance in the USDA-APHIS-VS chronic wasting disease program standards.

4. Tuberculosis.

- a. Uniform methods and rules - Tuberculosis. The current uniform methods and rules on cervid tuberculosis eradication as they appear in publication of USDA-APHIS-VS are hereby adopted and constitute a rule of the board unless otherwise ordered by the board.
- b. Marking and slaughter of condemned farmed elk.
 - (1) The state veterinarian shall determine when an animal is infected with tuberculosis, and if infected, shall condemn the animal.
 - (2) Farmed elk that are determined to be infected with tuberculosis must be marked in accordance with a method prescribed by the state veterinarian.
 - (3) Animals must be slaughtered within thirty days following condemnation.
- c. Reactors to tuberculosis must be accompanied by the proper official permit and are to be slaughtered in slaughter establishments under the supervision of the federal government or in another facility approved by the state veterinarian.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08, 36-01-12, 36-25-02

Law Implemented: NDCC 36-01-08, 36-01-12, 36-25-02

CHAPTER 48.1-08-01

48.1-08-01-02. Importation requirements - Certificate of veterinary inspection - Identification - Exemptions.

1. Goats imported into the state must be accompanied by an official certificate of veterinary inspection ~~and importation permit number~~ except:
 - a. Meat breed goats originating directly from a producer's premises, not diverted en route, and consigned to an auction market approved by the board;
 - b. Goats consigned to a state or federally inspected slaughtering establishment;
 - c. Goats granted an exception by the board, if in the opinion of the state veterinarian the animals are free of contagious or infectious diseases;
 - d. Goats leaving the state for exhibition or competition with a valid certificate of veterinary inspection may return to the state with the same certificate of veterinary inspection if the goat has not been out of the state for more than thirty days; or
 - e. Other goats as otherwise provided for by these rules.
2. ~~Certificate~~Certificates of veterinary inspection for goats must include an importation permit number issued by the state veterinarian before entering the state. Goats imported on an approved electronic certificate of veterinary inspection platform, not originating in an area classified as infected with contagious disease by the board or state veterinarian, may be exempt from the requirement for an importation permit number.
3. The state veterinarian may deny a request for an importation permit number if the state veterinarian has information that goats:
 - a. Have not met the disease testing, vaccination, or identification requirements set forth in North Dakota Century Code title 36 or this title, or as otherwise required by the state veterinarian;
 - b. Have not met any pre-entry quarantine conditions imposed by law;
 - c. Have been exposed to, may have been exposed to, is infected with, or may be infected with any contagious or infectious disease;
 - d. Are from or may originate from an area or premises under quarantine or other form of official or regulatory action relating to contagious or infectious disease; or
 - e. May be a threat to the health and well-being of the human or animal population of the state, or both.
4. Goats entering the state must be officially identified with an official scrapie tag or by another method approved by the state veterinarian.
5. Goats from foreign countries must be permanently officially identified with a method prescribed by the state veterinarian and an electronic identification compatible with the federal animal identification plan.
6. The state veterinarian may require additional disease testing, treatment, vaccination, or identification if the state veterinarian has reason to believe that other health risks are present.
7. Goats infected, or recently exposed to any contagious or infectious disease, may not be imported into the state.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12, 36-14-04.1

48.1-08-01-03. Importation disease testing requirements.

1. Brucellosis.

~~a. Dairy breed goats over six months of age must have a valid negative brucellosis test within thirty days prior to entry into the state.~~

~~b. A valid test for brucellosis is a blood test conducted by a state or federal laboratory or by a veterinarian approved in the state of origin.~~

2. Scrapie. The certificate of veterinary inspection must contain a written statement, signed by the owner of the goat, stating that:

"To the best of my knowledge, the goat or goats listed on this certificate originate from a herd that has not been diagnosed as a scrapie-infected, source, or exposed flock in the past sixty months."

3. Tuberculosis. ~~Goats sixty days of age or older must be negative to an official test for tuberculosis within thirty days prior to entering into the state. The following may be exempt from tuberculosis testing:~~

~~a. Meat breed goats that do not originate from an area where in the opinion of the board tuberculosis may exist;~~

~~b. Castrated males and spayed females that do not originate from an area where in the opinion of the board tuberculosis may exist; and~~

~~c. Nursing goat kids that accompany a negative-tested dam.~~

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08, 36-01-12

Law Implemented: NDCC 36-01-08, 36-01-12, 36-14-04.1

48.1-08-01-04. Disease control.

1. Anthrax.

a. Goats susceptible to anthrax located on farms where anthrax has been diagnosed must be vaccinated. Animals must be quarantined for thirty days after the death of the last animal or thirty days following vaccination, whichever occurs last.

b. Sale of hides removed from animals infected with anthrax is prohibited.

2. Brucellosis.

a. The recommended brucellosis eradication uniform methods and rules as they appear in publication of USDA-APHIS-VS are hereby adopted and constitute a rule of the board, unless otherwise ordered by the board.

b. Condemnation of infected goats.

(1) The state veterinarian shall determine when an animal is infected with brucellosis, and if infected, shall condemn the animal.

- (2) Goats that are condemned due to brucellosis must be marked in accordance with a method prescribed by the state veterinarian.
 - (3) Animals must be slaughtered within thirty days following condemnation.
 - c. Sale of goats out of brucellosis-infected herds. Herds of goats infected with brucellosis must be quarantined, with the quarantine prohibiting sale of all intact males and females, except to licensed, monitored feedlots or for slaughter, under written permit. Such goats must be held separate and apart. The state veterinarian may grant an exception to the quarantine by official permit based upon an epidemiological risk assessment.
3. Tuberculosis.
 - a. Uniform methods and rules - Tuberculosis. The current uniform methods and rules on goat tuberculosis eradication as they appear in publication of USDA-APHIS-VS are hereby adopted and constitute a rule of the board, unless otherwise ordered by the board.
 - b. Slaughter of condemned goats.
 - (1) The state veterinarian shall determine when an animal is infected with tuberculosis, and if infected, shall condemn the animal.
 - (2) Goats that are determined to be infected with tuberculosis must be marked in accordance with a method prescribed by the state veterinarian.
 - (3) Animals must be slaughtered within thirty days following condemnation.
 - c. Reactors to tuberculosis must be accompanied by the proper official permit and are to be slaughtered in slaughter establishments under the supervision of the federal government or in another facility approved by the state veterinarian.
4. Scrapie.
 - a. Identification.
 - (1) The owner of a herd or the owner's agent shall officially identify all animals upon change of ownership to the herd of birth or the herd of origin if the herd of birth cannot be determined. Goats are required to be officially identified except:
 - (a) Slaughter goats (goats in slaughter channels) less than eighteen months of age. If a sexually intact goat is sold at an unrestricted sale (any sale that is not a slaughter or feeding for slaughter sale), it must be identified.
 - (b) Wether goats less than eighteen months of age.
 - (c) Animals shipped directly to an approved slaughter facility or an approved market when all the animals in a section of a truck are from the same premises of origin and are accompanied by an owner's statement.
 - (d) Animals moved for grazing or similar management reasons whenever the animals are moved from a premises owned or leased by the owner of the animals to another premises owned or leased by the owner of the animals.
 - (2) No animal that is required to be individually identified or that originates from any area where in the determination of the board scrapie may exist may be sold, transported, received for transportation, or offered for sale or transportation in

intrastate commerce unless each animal is identified in accordance with this section.

- (3) No person may remove or tamper with any means of identification required to be on animals pursuant to this section while the animals are in intrastate commerce, and, at the time of slaughter, animal identification must be maintained throughout post-mortem inspection.
- (4) ~~Goats that are scrapie-suspect, scrapie-positive, scrapie-exposed, and high-risk animals, including all low-risk exposed animals, genetically susceptible exposed animals, genetically less susceptible exposed animals, and genetically resistant exposed goats must be identified as prescribed by the state veterinarian in consultation with USDA-APHIS-VS.~~

~~(a) Tag application on these classes of goats must be by, or under the supervision of, a USDA-APHIS-VS or the board or an accredited veterinarian.~~

~~(b) All forms of identification on these classes of goats, must be recorded on an official USDA-APHIS-VS form or equivalent and forwarded to the designated scrapie epidemiologist, the state veterinarian, and USDA-APHIS-VS. The recommended scrapie eradication uniform methods and rules as they appear in publication of USDA-APHIS-VS are adopted and constitute a rule of the board, unless otherwise ordered by the board.~~

b. ~~Reporting and investigation:~~

~~(1) Upon request by the board, the owner of a herd or the owner's agent shall have an accredited veterinarian collect and submit tissues from animals reported in accordance with section 48.1-08-01-04 to a laboratory designated by a USDA-APHIS-VS or the board.~~

~~(2) Investigation. The board, an accredited veterinarian approved to conduct scrapie program activities, or an authorized USDA-APHIS-VS representative shall:~~

~~(a) Investigate animals reported as scrapie suspect animals within seven days of notification.~~

~~(b) Designate a herd's status, within fifteen days of notification that the herd contains a scrapie-positive animal, based on an investigation by state or federal animal health authorities.~~

~~(c) Restrict the movement of newly designated scrapie-infected and source herds within seven days after they are designated.~~

~~(d) Modify infected and source herd movement restrictions only after completion of a herd plan, and after agreement by the owner to comply with a sixty-month post-exposure management and monitoring plan.~~

~~(e) Conduct an epidemiological investigation of source and infected herds that includes the designation of high-risk and exposed animals and that identifies animals to be traced.~~

~~(f) Conduct tracebacks of scrapie-positive animals and traceouts of high-risk and exposed animals and report any out-of-state traces to the appropriate state within forty-five days of receipt of notification of a scrapie-positive animal.~~

~~(g) Conduct tracebacks based on slaughter sampling within fifteen days of receipt of notification of a scrapie-positive animal at slaughter.~~

~~c. Disposition of herds.~~

~~(1) Infected herd. If a herd is determined to be a scrapie-infected herd, the herd must be quarantined. The owner has the option of:~~

~~(a) Depopulating the herd; or~~

~~(b) Signing an agreement with the state-federal scrapie program administrators agreeing to comply with requirements of title 9, Code of Federal Regulations, part 79.2, until the time the herd is no longer an infected herd.~~

~~(2) Source herd. If a herd is determined to be a scrapie source herd, the herd must be quarantined. The owner has the option of:~~

~~(a) Depopulating the herd;~~

~~(b) Signing an agreement with the state-federal scrapie program administrators agreeing to comply with the requirements of title 9, Code of Federal Regulations, part 79.2, until the herd is no longer a source herd; or~~

~~(c) Implementing a herd plan that meets board approval.~~

~~(3) Exposed herd. Upon designation by the board as an exposed herd, the herd must be quarantined until the owner implements a herd plan that meets the state-veterinarian's approval. In the event a herd is determined to be a scrapie-exposed herd, the owner has the option of:~~

~~(a) Depopulating the herd; or~~

~~(b) Signing an agreement with the state-federal scrapie program administrators agreeing to comply with requirements of title 9, Code of Federal Regulations, part 79.2, until the time the herd is no longer an exposed herd.~~

~~d. Owner reporting requirements.~~

~~The owner of a herd or the owner's agent immediately shall report to the board, USDA-APHIS-VS representative, or an accredited veterinarian any suspect animal. Such animal may not be removed from the herd without written permission by the state veterinarian.~~

~~e. Herd records disclosure.~~

~~(1) The owner of a herd or the owner's agent shall allow breed associations and registries, livestock markets, and packers to disclose records to the board, to be used in an epidemiological investigation of source herds, infected herds, and exposed animals.~~

~~(2) The owner of a herd enrolled in the voluntary scrapie herd certification program described in title 9, Code of Federal Regulations, part 54, or the owner's agent, selling or otherwise disposing of breeding stock shall make animals in the herd and records required to be kept under paragraph (a)(2)(iv) of title 9, Code of Federal Regulations, part 79.2, available for inspection by USDA-APHIS-VS representatives or the board, given reasonable prior notice.~~

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-12; 9 CFR 54, 9 CFR 79.2

CHAPTER 48.1-09-01

48.1-09-01-01. Definitions.

For purposes of this article:

1. "Confinement" means any structure or other means intended to keep an animal within bounds or restrict its movement.
2. "Environmentally dangerous animal" means animals that are known to cause exceptionally serious depredation to the environment.
3. "Herd" means any group of livestock maintained on common ground, or two or more groups of livestock under common ownership or supervision which are geographically separated from other herds, but can have an interchange or movement without regard to health status, as determined by the state veterinarian.
4. "Hybrid" means an animal produced by interbreeding different species or subspecies. If a hybrid is produced from animals of different nontraditional livestock categories, the produced hybrid animal is classified the highest of the different nontraditional livestock categories of the different species or subspecies regardless of the hybrid ratio.
5. "Importation permit number" means authorization obtained from the board for the importation of animals into the state.
6. "Inherently dangerous animal" means any animal that is intrinsically dangerous by nature and poses life-threatening risks.
7. "License" means a document obtained from the board and issued to a person for the maintenance of a category 2 or category 3 species in the state.
8. "Maintain" means to own, possess, control, restrain, or keep in captivity.
9. "Nontraditional livestock" means any nondomestic species held in confinement or which is physically altered to limit movement and facilitate capture. Nontraditional livestock includes ova, semen, eggs, or embryos of such livestock.
10. "Nontraditional livestock auction permit" means a document that may be issued by the board for organized auctions or sales of category 2 or category 3 nontraditional livestock.
11. "Nonvenomous injurious reptile" means a reptile that is normally considered a nonvenomous or nonpoisonous species where found in its native habitat and which can cause serious bodily injury or death upon a human being.
12. "Protected species" means wild varieties of geese, brant, swans, ducks, plovers, snipes, woodcocks, grouse, sage hens, pheasants, Hungarian partridges, quails, partridges, cranes, rails, coots, wild turkeys, mourning doves, crows, white-tailed deer, mule deer, moose, elk, bighorn sheep, mountain goats, antelope (pronghorn), mink, muskrats, weasels, wolverines, otters, martens, fishers, kit or swift foxes, beavers, raccoons, badgers, wolves, coyotes, bobcats, lynx, mountain lions, black bears, red or gray foxes, and tree squirrels.
13. "Species category list" is a listing of species previously reviewed and currently categorized by the board.
14. "Venomous reptile" means a reptile that is normally considered a venomous or poisonous species where found in its native habitat and which can cause serious bodily injury or death upon a human being, regardless of whether an individual animal has been de venomized.

15. "Wildlife" means any member of the animal kingdom, including any mammal; fish; bird, including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement; amphibian; reptile; mollusk; crustacean; or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof. Wildlife does not include domestic animals or birds or animals held in private ownership.
16. ~~"Zone 1" is that area bordered by a line that begins at the junction of the Montana border and Missouri River, runs east along the Missouri River to state highway 49, south to state highway 21, west to state highway 22 to the Slope-Bowman county line, and west to Montana.~~
- ~~17. "Zone 2" is that area bordered by a line that begins at the Minnesota state line on United States highway 2, runs west to Towner and north along the Souris River to the Canadian border.~~
- ~~18. "Zoo" means an organization with a class C exhibitor's license which follows United States department of agriculture regulations and is inspected by USDA-APHIS-VS.~~

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-08.4, 36-01-12

48.1-09-01-02. Categories of nontraditional livestock.

1. Nontraditional livestock category 1 species:
 - a. Category 1 species of nontraditional livestock are those species generally considered domestic, or other species that are not inherently dangerous, that do not pose a health risk to humans, domestic animals, or wild animals, and do not pose a hazard to the environment, as determined by the board.
 - b. Category 1 species of nontraditional livestock includes turkeys, geese, and ducks morphologically distinguishable from wild turkeys, geese, ducks, pigeons, rabbits, ratites, chinchilla, Guinea fowl, ranch foxes, ranch mink, peafowl, all pheasants, quail, chukar, hedgehog, degus, and other species as ordered by the board.
 - c. Category 1 species of nontraditional livestock do not require a nontraditional livestock license, but owners must otherwise comply with the rules in this title.
2. Nontraditional livestock category 2 species:
 - a. Category 2 species of nontraditional livestock are certain protected species or those species that may pose health risks to humans or animals or may be environmentally hazardous, as determined by the board.
 - b. Category 2 species of nontraditional livestock includes the following species and their hybrids, all nondomestic ungulates, including all deer (cervidae) and pronghorn, zebras, nondomestic cats not listed in category 3, waterfowl, shorebirds, upland game birds not listed in category 1, crows, wolverines, otters, bats, martens, fishers, kit or swift foxes, badgers, coyotes, mink, red and gray foxes, muskrats, beavers, weasels, opossums, prairie dogs, and other ground squirrels, other species as ordered by the board and the following varieties of sheep: black Hawaiian, Corsican, painted desert, multi-horned hair, New Mexico dall, Texas dall, and desert sand.
3. Nontraditional livestock category 3 species:

- a. Category 3 species of nontraditional livestock are those species that pose special concerns, including species which are inherently dangerous or environmentally hazardous.
 - b. Category 3 species of nontraditional livestock includes the following species and their hybrids:
 - (1) All wild species of the family suidae, except swine considered domestic in the state by the board.
 - (2) Big cats, including mountain lion, jaguar, leopard, lion, tiger, and cheetah.
 - (3) Bears.
 - (4) Wolves.
 - (5) Venomous reptiles and nonvenomous injurious reptiles.
 - (6) Primates.
 - (7) Nondomestic sheep and nondomestic goats not listed in nontraditional livestock category 2.
 - (8) Other species as ordered by the board.
4. Exempt animals. Unless the state veterinarian determines it is necessary based on disease incidence information or human health or safety concerns, the following are exempt from the importation permit and certificate of veterinary inspection requirement:
- a. Arachnids.
 - b. Amphibians.
 - c. Invertebrates.
 - d. Nonvenomous noninjurious reptiles.
 - e. Tropical freshwater and saltwater fish.
 - f. Gerbils.
 - g. Guinea pigs.
 - h. Hamsters.
 - i. Mice.
 - j. Rats.
 - k. Sugar gliders.
 - l. Ova, semen, eggs, or embryos of nontraditional livestock.
5. Prohibited animals. The board may prohibit, by policy or rule, ownership or possession of any animal deemed to be a significant threat to human or animal health in the state.
- a. Skunks and raccoons may not be imported into the state for any purpose.
 - (1) If the state veterinarian determines that a skunk or raccoon is being kept in captivity in violation of North Dakota Century Code section 36-01-08.4, the state veterinarian

may serve upon the owner or keeper of such skunk or raccoon a notice of intent to confiscate the animal.

- (2) The owner or keeper of the animal may request a hearing within ten days of receipt of the notice. Such a hearing, if requested, must be conducted by an administrative law judge, who shall make a recommended decision to the board.
 - (3) If the owner or keeper of the animal does not request a hearing within the prescribed time period, the state veterinarian may confiscate and place the animal at a licensed zoo, if feasible, or have it humanely destroyed.
 - (4) The state veterinarian may obtain the assistance of agents and employees of other state agencies or local law enforcement officials in carrying out this chapter and North Dakota Century Code section 36-01-08.4.
6. Nontraditional livestock not otherwise referred to in this section or Century Code must be reviewed by the board for determination of importation requirements and licensure requirements prior to importation.
 7. Reclassification of any species is contingent upon scientific information indicating the risks posed by these species to native wildlife populations and domestic animals and must be reviewed by the board.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-08.4, 36-01-12

48.1-09-01-06. Fencing requirements.

1. Owners of all categories of nontraditional livestock shall comply with fencing or enclosure standards that will assure containment.
2. Unless otherwise specified, perimeter fences for cervids, nondomestic sheep and goats, and nondomestic hybrid sheep and goats must follow the height requirements in this section. The bottom of the fence must be at or below ground level. The fence must be a mesh of a size to prevent escape and not spaced more than six inches [15.24 centimeters] apart.
 - a. Electric fencing materials may be used on perimeter fences, only as a supplement to conventional fencing materials.
 - b. All gates in the perimeter fence must be locked and there must not be more than six inches [15.24 centimeters] below or between gates.
 - c. Posts must be of sufficient strength to keep nontraditional livestock securely contained. The posts must extend to the upper limits of the height requirement and be spaced no more than twenty-four feet [7.32 meters] apart.
 - d. Each fawning or lambing pen may not exceed one hundred sixty acres [64.75 hectares].
 - e. The minimum standards for perimeter fences are as follows:
 - (1) A four-foot [1.22-meter] fence for small cervid species, including muntjac.
 - (2) A four-foot [1.22-meter] fence made of twelve-gauge or heavier woven wire, or other material of similar strength for black Hawaiian, Corsican, painted desert, multi-horned hair, Texas dall, New Mexico dall, and desert sand sheep.
 - (3) A six-foot [1.83-meter] fence for fallow deer.

(4) An eight-foot [\[2.44-meter\]](#) fence for white-tailed deer, mule deer, ~~red deer~~, category 3 nondomestic sheep, and category 3 nondomestic goats.

3. Animals may be subject to additional fencing requirements at the discretion of the state veterinarian.

History: Effective July 1, ~~2016~~; [amended effective July 1, 2024](#).

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12

CHAPTER 48.1-09-03

48.1-09-03-01. Importation disease testing requirements for nontraditional livestock category 2 species.

1. Brucellosis.

a. ~~Reindeer (rangifer):~~

~~(1) For certified brucellosis-free cervid herds, no movement testing is required.~~

~~(2) For brucellosis-monitored cervid herds, all sexually intact animals six months of age or older must test negative for brucellosis by four different official tests as specified by the state veterinarian within ninety days prior to importation.~~

~~b. All other cervidae:~~

~~(1) For certified brucellosis-free cervid herds, no movement testing is required.~~

~~(2) For brucellosis-monitored cervid herds, all sexually intact animals six months of age or older must test negative for brucellosis by two different official tests within ninety days prior to importation.~~

~~(3) For herds with unknown status, all sexually intact animals six months of age or older must test negative for brucellosis by two different official brucellosis tests within thirty days prior to importation.~~

~~c. Category 2 nondomestic sheep must:~~

~~(1) Test negative for *Brucella ovis* by an official test approved by the state veterinarian within thirty days prior to importation.~~

~~(2) Test negative for *Brucella abortus* by two different official tests approved by the state veterinarian within thirty days prior to importation.~~ Category 2 nondomestic sheep must test negative for *brucella ovis* by an official test approved by the state veterinarian within thirty days prior to importation.

~~d.b.~~ For all other species, testing requirements will be determined on a species-by-species basis by the state veterinarian.

2. Chronic wasting disease requirements for white-tailed deer, mule deer, moose, red deer, and other species determined to be susceptible to chronic wasting disease:

a. Animals must pass a satisfactory risk assessment for chronic wasting disease, conducted by the state veterinarian's office. The state veterinarian's office shall notify an applicant submitting a chronic wasting disease risk assessment form of the decision within ten days of the form submission. Persons seeking an importation permit for these species shall ship the animals within thirty days of state veterinarian office approval. After thirty days, a new risk assessment form application must be submitted and approved prior to shipment.

b. The following statement must be verified on the certificate of veterinary inspection by the herd veterinarian:

"These animals and the herd from which the animals originate have no history of emaciation, depression, excessive salivation or thirst, or neurological disease. In the event of these symptoms, appropriate diagnostic measures were taken to rule out a

transmissible spongiform encephalopathy. These animals have not been exposed to an elk or deer diagnosed positive for a transmissible spongiform encephalopathy."

- c. No animals may be imported from a herd in which chronic wasting disease has been diagnosed or a herd that has had chronic wasting disease traced to it unless that herd has undergone sixty months of surveillance after the last case of chronic wasting disease. The surveillance must meet the standards set by the state veterinarian.
 - d. The office of the state veterinarian may waive the requirement for a risk assessment if the herd of origin has been under surveillance for chronic wasting disease for at least sixty months. The surveillance must meet the standards prescribed by the state veterinarian.
- 3. Equine infectious anemia. Equidae must have a negative serologic test for equine infectious anemia approved by the state veterinarian within twelve months prior to importation into North Dakota.
 - 4. Johne's disease. For all ruminants, the following statement must be included on the certificate of veterinary inspection, signed by a licensed, accredited veterinarian in the state or province of origin:

"To the best of my knowledge, animals listed herein are not infected with paratuberculosis (Johne's disease) and have not been exposed to animals infected with paratuberculosis."

- 5. Rabies. With respect to captive-bred animals of the order carnivora, vaccination is required for species for which there is an United States department of agriculture-approved vaccine. For species for which there is no United States department of agriculture-approved vaccination, the following statement must be included on the certificate of veterinary inspection:

"The animals on the premises of origin have been free from symptoms of rabies for the past 12 months."

Carnivores taken from the wild in other states may not enter the state if rabies has been diagnosed in the past twelve months in the same species in the state of origin. The animals may not come from an area that is quarantined for rabies, unless approved by the North Dakota state veterinarian.

- 6. Scrapie. Nondomestic sheep must be free of any signs of scrapie as determined by an accredited veterinarian. The certificate of veterinary inspection for sheep must contain a written statement signed by the consignor stating that:

"To the best of my knowledge, the sheep listed on this certificate originate from a flock that has not been diagnosed as a scrapie-infected, source, or exposed flock in the past sixth months."

- 7. Tuberculosis.
 - a. Tuberculosis requirements for states with tuberculosis-modified accredited cervid status:
 - (1) Cervids that are moved directly to slaughter at an approved slaughtering establishment do not require tuberculosis testing.
 - (2) Cervids from a herd with a current accredited-free cervid status for tuberculosis may be moved to any licensed nontraditional livestock facility provided the cervids meet the following requirements:

- (a) The cervids are accompanied by a certificate stating that the accredited herd completed the testing necessary for accredited status with negative results within thirty-six months prior to the movement.
 - (b) Cervids, except animals nursing negative-tested dams, originating in a state or zone lacking bovine accredited-free status must test negative to an official test for bovine tuberculosis within ninety days of movement or consignment.
- (3) Cervids from a cervid tuberculosis-qualified herd may be moved to any licensed nontraditional livestock facility provided the cervids meet the following requirements:
- (a) The cervids are accompanied by a certificate stating that all animals in the movement, except animals nursing negative-tested dams, were negative to an official test for bovine tuberculosis conducted within six months prior to the movement.
 - (b) Cervids, except animals nursing negative-tested dams, originating in a state or zone lacking bovine accredited-free status must test negative to an official test for bovine tuberculosis within ninety days of movement or consignment.
- (4) Cervids from a cervid tuberculosis-monitored herd may be moved to any licensed nontraditional livestock facility provided the cervids are accompanied by a certificate stating that all animals in the movement, except animals nursing negative-tested dams, were negative to an official test for bovine tuberculosis conducted within ninety days prior to the movement.
- (5) Cervids from herds of unknown cervid tuberculosis status may be moved to any licensed nontraditional livestock facility provided the cervids meet the following requirements:
- (a) The cervids are accompanied by a certificate stating that all animals in the movement, except animals nursing negative-tested dams, were negative to two official tests for bovine tuberculosis. The required tests must be conducted not less than ninety days apart, with the second test conducted within ninety days of the movement.
 - (b) Cervids, except animals nursing negative-tested dams, in a consignment that is being moved from a herd located in a state or zone lacking accredited-free status for bovine tuberculosis must be from a herd that has had a negative official test for bovine tuberculosis within twelve months prior to the movement. All farmed cervids in the movement, except animals nursing negative-tested dams, must be negative to a second official test for bovine tuberculosis conducted within ninety days prior to the movement unless the herd of origin herd test was conducted within ninety days prior to the movement.
- b. Tuberculosis requirements for states without tuberculosis-modified accredited cervid status may be subject to additional importation requirements at the discretion of the state veterinarian.
- c. ~~Category 2 nondomestic sheep must test negative for tuberculosis within thirty days prior to importation.~~
- ~~d.~~ Tuberculosis requirements for all other species will be determined on a species-by-species basis by the state veterinarian.

8. Diseases of birds:

- a. Pullorum and fowl typhoid (galliformes):
- (1) Galliformes, including prairie chicken, quail, pheasant, chukar, gray (Hungarian) partridge, and wild turkey over five months of age, imported for breeding purposes, must test negative for pullorum-typhoid disease within thirty days prior to entry or originate from qualified flocks, unless originating from a disease-free area as determined by the state veterinarian.
 - (2) Poultry under five months of age and hatching eggs imported or offered for sale in the state must originate from qualified flocks.
 - (3) In lieu of pullorum and fowl typhoid testing of other galliformes, the following statement, signed by the veterinarian and the owner or owner's agent, may be included on the certificate of veterinary inspection:

"To my knowledge, birds listed herein are not infected with pullorum or fowl typhoid and have not been exposed to birds infected with pullorum or fowl typhoid during the past twelve months."
- b. Exotic Newcastle disease (viscerotropic, velogenic viruses) psittacosis (Psittacines). The following statement, which applies to all psittacine birds entering the state, must be included on the certificate of veterinary inspection and be signed by the veterinarian and the owner or owner's agent:

"To my knowledge, birds listed herein are not infected with exotic Newcastle disease or psittacosis and have not been exposed to birds known to be infected with exotic Newcastle disease or psittacosis within the past thirty days."
- c. Mycoplasmosis. Wild turkeys, including eggs and hatchlings of the species meleagris gallopavo, unless going directly to slaughter, must:
- (1) Originate from a producer who is participating in the mycoplasmosis control phase of the national poultry improvement plan; or
 - (2) The birds must have been tested serologically negative for mycoplasma gallisepticum and M. synoviae within the past thirty days.
- d. Avian influenza. The following statement, which applies to birds entering the state, must be included on the certificate of veterinary inspection and be signed by the veterinarian and the owner or owner's agent:

"To my knowledge, birds listed herein are not infected with avian influenza and have not been exposed to birds known to be infected with avian influenza."
9. Additional disease testing may be required by the board prior to importation or sale if there is reason to believe other diseases, parasites, or health risks are present.

History: Effective July 1, 2016; [amended effective July 1, 2024](#).

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12

CHAPTER 48.1-09-04

48.1-09-04-01. Intrastate movement requirements.

~~1. Red deer and red deer hybrids may not be imported into or allowed in zone 1 or zone 2.~~

~~2.~~ Board approval must be obtained to possess nondomestic sheep and hybrids or nondomestic goats and hybrids south and west of the Missouri River.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12

CHAPTER 48.1-09-05

48.1-09-05-01. Disease control.

1. Anthrax.
 - a. Nontraditional livestock susceptible to anthrax located on farms where anthrax has been diagnosed must be vaccinated. Nontraditional livestock must be quarantined for thirty days after the death of the last animal or thirty days following vaccination, whichever occurs last.
 - b. Sale of hides removed from nontraditional livestock infected with anthrax is prohibited.
2. Brucellosis.
 - a. The recommended brucellosis eradication uniform methods and rules as they appear in publication of the USDA-APHIS-VS are hereby adopted and constitute a rule of the board, unless otherwise ordered by the board.
 - b. Condemnation of infected animals.
 - (1) The state veterinarian shall determine when an animal is infected with brucellosis, and if infected, shall condemn the animal.
 - (2) Nontraditional livestock that are condemned due to brucellosis must be marked in accordance with a method prescribed by the state veterinarian.
 - (3) Animals must be slaughtered within thirty days following condemnation.
 - c. Sale of nontraditional livestock out of brucellosis-infected herds. Herds of animals infected with brucellosis must be quarantined, with the quarantine prohibiting sale of all intact bulls and females, except to licensed, monitored feedlots or for slaughter, under written permit. Such animals must be held separate and apart. The state veterinarian may grant an exception by official permit as provided in this section.
3. Chronic wasting disease.
 - a. If any white-tailed deer, mule deer, moose, or other susceptible species twelve months of age and older die for any reason, the owner shall submit the appropriate sample to an approved laboratory for chronic wasting disease surveillance as soon as practicable. Official identification must accompany the sample to the laboratory.
 - b. A chronic wasting disease diagnosis will be based on postmortem sample testing confirmed by the national veterinary services laboratory.
 - c. Other species may be subject to this requirement as determined by the state veterinarian.
 - d. The state veterinarian may grant exemptions to this surveillance.
 - e. Herd disposition upon diagnosis with chronic wasting disease.
 - (1) A herd containing animals diagnosed with chronic wasting disease, or which has had chronic wasting disease traced back to the herd, must be quarantined until the herd is depopulated or until a herd plan is established.
 - (2) If depopulation is not practicable, the owner and the state veterinarian shall develop a herd plan according to the following:

- (a) If the herd displays no evidence of disease transmission within the herd as determined by an epidemiological investigation by the state veterinarian or a validated test, the herd plan must include provisions for:
 - [1] Herd inspection by board agents;
 - [2] Herd inventory with annual verification;
 - [3] Herd surveillance (mandatory death reporting and chronic wasting disease testing for sixty months from the last case or exposure);
 - [4] Separation of high-risk animals (high-risk animals are pen mates of an affected animal for twelve months prior to the death of the affected animal and all animals related to the affected animal); and
 - [5] High-risk animals must be quarantined for sixty months from the last case or exposure or euthanized and tested for chronic wasting disease.

- (b) If the herd displays evidence of disease transmission within the herd as determined by an epidemiological investigation by the state veterinarian or a validated test, the herd plan must include provisions for:
 - [1] Herd inspection by board agents;
 - [2] Herd surveillance (mandatory death reporting and chronic wasting disease testing for sixty months from the last case or exposure);
 - [3] Separation of high-risk animals;
 - [4] High-risk animals must be quarantined for sixty months from the last case or exposure; and
 - [5] The entire herd must be quarantined for sixty months from the last case or exposure.

- (c) If the herd is a trace herd as determined by an epidemiological investigation by the state veterinarian or a validated test, the herd plan must include provisions for:
 - [1] Herd inspection by board agents;
 - [2] Herd inventory with annual verification;
 - [3] Herd surveillance (mandatory death reporting and chronic wasting disease testing for sixty months from the last case or exposure); and
 - [4] Separation of high-risk animals and quarantine for sixty months from the last exposure or death of high-risk animals and testing for chronic wasting disease.

f. Management of herds containing animals diagnosed with, exposed to, or potentially exposed to chronic wasting disease may be adjusted based upon epidemiological investigation and guidance in the USDA-APHIS-VS chronic wasting disease program standards.

4. Tuberculosis.

- a. Uniform methods and rules - Tuberculosis. The current uniform methods and rules on cervid tuberculosis eradication as they appear in publication of USDA-APHIS-VS are hereby adopted and constitute a rule of the board unless otherwise ordered by the board.
- b. Condemnation of infected animals.
 - (1) The state veterinarian shall determine when an animal is infected with tuberculosis, and if infected, shall condemn the animal.
 - (2) Animals that are determined to be infected with tuberculosis must be marked in accordance with a method prescribed by the state veterinarian.
 - (3) Animals must be slaughtered within thirty days following condemnation.
- c. Reactors to tuberculosis must be accompanied by the proper official permit and are to be slaughtered in slaughter establishments under the supervision of the federal government or in another facility approved by the state veterinarian.

History: Effective July 1, 2016; [amended effective July 1, 2024](#).

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12

CHAPTER 48.1-09-06

48.1-09-06-01. Housing, handling, health, and importation requirements.

1. Suidae including wild species of the family suidae (hogs and pigs), except swine considered domestic in the state by the board.
 - a. Importation requirements for wild species of the family suidae (hogs and pigs), except swine considered domestic in the state by the board.
 - (1) Certificate of veterinary inspection and importation permit number from the board.
 - (2) Negative pseudorabies serologic test approved by the state veterinarian within thirty days prior to entry into the state.
 - (3) Negative brucellosis test within thirty days of importation.
 - b. Housing requirements (perimeter fence aboveground) ~~an~~for a confinement or holding area:
 - (1) Perimeter fence at least six feet [1.83 meters] tall must be present.
 - (2) Twelve-gauge or stronger mesh is required and must be no greater than three inches by four inches [7.62 centimeters by 10.16 centimeters].
 - (3) Four-inch [10.16-centimeter] diameter treated posts or two-inch [5.08-centimeter] steel pipes must be no more than eight feet [2.44 meters] apart. Posts must be set three feet [.91 meter] deep.
 - (4) Fence must be attached on the inside.
 - (5) Two electric wires must be six inches [15.24 centimeters] inside the fence.
 - (a) The first wire must be six to eight inches [15.24 to 20.32 centimeters] above the ground.
 - (b) The second wire must be eight to twelve inches [20.32 to 30.48 centimeters] above the first wire.
 - (c) Generator backup is required.
 - (d) Snow that could affect the integrity of the fence must be removed before animals are allowed into the enclosure.
 - (e) Electric fence must be maintained in working order and be kept clear of foliage and debris.
 - (6) If a wooden structure is used, posts must be no more than eight feet [2.44 meters] apart with a gap no more than four inches [10.16 centimeters] between planks, except if young pigs are present, the fencing gaps must be no more than two inches [5.08 centimeters].
 - (7) In the confinement area, an underground fence must be constructed with concrete or imperviable surface comparable to concrete that meets the following requirements:
 - (a) Same strength as perimeter fence.
 - (b) Buried two feet [.61 meter] below ground.

- (c) Three feet [0.91 meter] angled forty-five degrees toward interior of enclosure.
 - (d) Four to six inches [10.16 to 15.24 centimeters] aboveground overlapped and attached to aboveground fence to monitor and ensure proper connection.
- c. Gates in confinement area must meet the following requirements:
- (1) A gate at least six feet [1.83 meters] tall must be present.
 - (2) Any gaps must be less than four inches [10.16 centimeters] between the gate and ground, except if young pigs are present, the fencing gaps must be no more than two inches [5.08 centimeters].
 - (3) An electric wire must span across the gate. The electric fence must be constructed of twelve-gauge wire and consist of a minimum of a two-joules charge.
 - (4) An underground fence must span the gate opening and must anchor the gating to the ground with a two-inch [5.08 centimeter] steel pipe or equivalent.
2. Large felids and felid hybrids, including mountain lions, jaguars, leopards, lions, tigers, and cheetahs:
- a. Large felids that are in the presence of persons other than the owner, handler, or immediate family must be under the direct control and supervision of the owner or handler at all times.
 - b. Importation for large felids requires a certificate of veterinary inspection and importation permit number from the board.
 - c. Housing requirements for large felids:
 - (1) Maintained in enclosures utilizing thick laminated safety glass, bars, or sturdy wire or in large outdoor exhibits employing barriers to separate animals and the public.
 - (2) A cage for a single animal must measure at least twenty feet [6.10 meters] wide by fifteen feet [4.57 meters] deep.
 - (3) Cages must be fifty percent larger per additional animal.
 - (4) Enclosures must have smaller shift facilities to permit safe cleaning, cage repair, or other separations. Shift cages must measure at least eight feet by eight feet [2.44 meters by 2.44 meters].
 - (5) Enclosures must be made of steel chain link fencing of at least twelve-gauge strength, or material of adequate strength as approved by the state veterinarian, fastened to a cement floor. If a dirt floor is used, an underfencing must extend at least forty-two inches [106.68 centimeters] into the pen. The underfencing must be covered with adequate layers of dirt, gravel, or other substrate and any holes checked and refilled on a regular basis.
 - (6) A guard rail or natural barrier must be in place which is at least three feet [0.91 meter] in height, providing a minimum of a four-foot [1.22-meter] distance between the enclosure and people in areas where people, other than the owner or handler, have access to the enclosure.
 - (7) A perimeter fence at least eight feet high [2.44 meters] and at least four feet [1.22 meters] from the primary enclosure must be in place to keep animals and

persons out of the enclosure and to act as a secondary security measure should an animal escape.

- d. Additional housing requirements for very large pantherids (lions and tigers):
 - (1) Outdoor cages must have vertical walls at least sixteen feet [\[4.88 meters\]](#) high, or thirteen feet [\[3.96 meters\]](#) high with a minimum three-foot [\[.91-meter\]](#) overhang, or be provided with tops at least ten feet [\[3.05 meters\]](#) high.
 - (2) Raised shelves or ledges for sleeping and resting and large logs for claw sharpening.
- e. Additional housing requirements for cheetahs. Cages must have vertical walls at least eight feet [\[2.44 meters\]](#) high.
- f. Additional housing requirements for other large felids (leopards, jaguars, and mountain lions (pumas or cougars)):
 - (1) Elevated ledges or perches for sleeping and resting.
 - (2) Wood logs or other such materials for claw sharpening.
 - (3) Enclosures housing leopards and jaguars, whether indoors or outdoors must have secure tops.
 - (4) An outdoor cage housing mountain lions must be at least eight feet [\[2.44 meters\]](#) high with an additional overhang of fencing angling into the pen at least three feet [\[.91 meter\]](#) or six feet [\[1.83 meters\]](#) high with a ceiling.

3. Bears.

- a. Bears, which are in the presence of persons other than the owner, handler, or immediate family, must be under the direct control and supervision of the owner or handler at all times.
- b. Importation requirements for all bears are a certificate of veterinary inspection and importation permit number from the board.
- c. Housing requirements for bears:
 - (1) Outdoor enclosures employing barriers, thick laminated safety glass, or bars. When used, dry moats must be at least twelve feet [\[3.66 meters\]](#) wide and twelve feet [\[3.66 meters\]](#) deep.
 - (2) A dry resting and social area, pool, and den.
 - (3) The use of electric wires or other means to discourage fence climbing.
 - (4) In addition to the primary enclosure:
 - (a) Den space for a single bear must measure at least six feet [\[1.83 meters\]](#) in width and depth and be at least five feet [\[1.52 meters\]](#) in height.
 - (b) Visual barriers, such as logs or boulders, added to enclosures housing more than one animal.
 - (c) Adequate shade provided to simultaneously accommodate all individuals housed within the enclosure.

- (d) Smaller shift facilities to permit safe cleaning, cage repair, or other separations. Shift cages must be at least eight feet by eight feet [2.44 meters by 2.44 meters].
- (5) Fences for all species must be fastened to a cement floor, or if a dirt floor is used, underfencing with a strength equal to the primary fencing must extend at least forty-two inches [106.68 centimeters] into the pen.
- (6) The underfencing must be covered with a minimum of two feet [.61 meter] of dirt, gravel, or other substrate and any holes checked and refilled on a regular basis.
- d. Additional housing requirements for polar bears, brown bears, and grizzly bears:
 - (1) If vertical walls are used as a primary barrier, they must be at least twelve feet [3.66 meters] high.
 - (2) Adjoining facilities to permit safe cleaning and additional separation.
 - (3) The dry resting and social area for one or two adult bears must measure at least four hundred square feet [37.16 square meters] with an additional forty square feet [3.72 square meters] provided for each additional bear.
 - (4) Fencing must be a minimum of four-gauge steel chain link or equivalent.
- e. Additional housing requirements for American black bears, Asiatic black bears, sloth bears, spectacled bears, and sun bears:
 - (1) Three hundred square feet [27.87 square meters] of dry resting and social area must be provided for one or two animals and be increased by fifty percent for each additional animal.
 - (2) Fencing must be minimum of nine-gauge steel chain link or equivalent.
 - (3) Fencing height must be a minimum of ten feet [3.05 meters] with a top or twelve feet [3.66 meters] with an additional three-foot [.91-meter] overhang.
- 4. Wolves and wolf hybrids.
 - a. Any wolf that is in the presence of persons other than the owner, handler, or immediate family must be under the direct control and supervision of the owner or handler at all times.
 - b. Importation requirements for wolves:
 - (1) A certificate of veterinary inspection and importation permit number from the board.
 - (2) A statement on the certificate of veterinary inspection that the animal has not been exposed to rabies.
 - (3) The animal cannot be imported from an area that is quarantined for rabies, unless approved by the state veterinarian.
 - c. Outdoor housing or holding facility requirements for wolves:
 - (1) Minimum floor space per animal must be two hundred square feet [18.58 square meters] and floor space must be increased by one hundred square feet [9.29 square meters] for each additional animal. The enclosure must be at least eight feet

[2.44 meters] high with an additional overhang of fencing angling into the pen or six feet [1.83 meters] high with a ceiling.

- (2) The enclosure must be made of steel chain link fencing of at least twelve-gauge strength, or fencing of adequate strength as approved by the state veterinarian, fastened to a cement floor. If a dirt floor is used, underfencing must extend at least forty-two [106.68 centimeters] inches into the pen. The underfencing must be covered with adequate layers of dirt, gravel, or other substrate and any holes checked and refilled on a regular basis.
- (3) Gates must have locks to prevent unauthorized entry of individuals.
- (4) Shade and shelter from elements and inclement weather must be provided.
- (5) A perimeter fence meeting the requirements of title 9, Code of Federal Regulations, sections 3.75, 3.77, and 3.78, must be required if the animal is kept within the city limits or other populated areas as determined by the state veterinarian.

5. Venomous reptiles and nonvenomous injurious reptiles.

- a. A license to possess a venomous reptile may only be issued if the applicant seeking the nontraditional livestock license demonstrates an educational purpose for and the ability to appropriately house, feed, care for, handle, and, if necessary, dispose of the reptile. An educational purpose includes research and displays at schools, institutions of higher education, wildlife preserves, zoos, and other bona fide educational displays approved by the state veterinarian.
- b. A license to possess a nonvenomous injurious reptile may only be issued if the applicant seeking the nontraditional livestock license demonstrates the ability to appropriately house, feed, care for, handle, and, if necessary, dispose of the reptile.
- c. The permittee shall provide documentation to the state veterinarian of the permittee's experience with these types of animals and the permittee's ability to safely maintain and control the animals.
- d. Importation for venomous reptiles or nonvenomous injurious reptiles requires a certificate of veterinary inspection and importation permit from the board.
- e. Premises where venomous reptiles are kept on display to the public must be posted with a notice clearly and conspicuously posted to provide the location of the nearest, most readily available source of appropriate antivenin and a written plan of action in the event of a venomous reptile bite.
 - (1) This plan of action must receive the written approval of a local medical facility, and a copy of the plan of action and the approval of the medical facility must be provided to the board.
 - (2) The person possessing the venomous reptile shall arrange for appropriate antivenin to be readily available through a local hospital, the name, address, and telephone number of which must be affixed to the enclosure.
- f. Written animal escape emergency procedures must be clearly and conspicuously posted in the building housing venomous reptiles or nonvenomous injurious reptiles and must be supplied to the board at the time the permit application is initially submitted.
- g. Written notice of the presence on the premises of venomous or nonvenomous injurious reptiles must be provided to the local police, firefighters, and emergency medical

personnel, including an identification of the animals possessed and the location of the animals within the premises.

- h. If a venomous or nonvenomous injurious reptile is transported or removed from its primary enclosure for feeding or in order to clean the enclosure, the reptile must be kept in a fully enclosed container with a secure and locked lid which has air holes or other means of ventilation.
 - i. Snake hooks must be present for caring for venomous snakes.
 - j. The permittee shall telephonically notify the board of any reptile bite on humans or escapes of any reptiles within twenty-four hours and provide a written report of the incident to the board within seven days.
 - k. Housing requirements for venomous reptiles:
 - (1) An enclosure or container containing venomous reptiles must be clearly labeled as "Venomous" and be labeled with the common and scientific name of the species as well as the number of animals contained inside.
 - (2) Venomous reptiles in captivity must be kept in a cage or in a safety glass enclosure sufficiently strong, and in the case of a cage, of small enough mesh to prevent the animal's escape and with double walls sufficient to prevent penetration of fangs to the outside. All enclosures and access to them must be locked.
 - l. Housing requirements for nonvenomous injurious reptiles:
 - (1) An enclosure or container containing nonvenomous injurious reptiles must be clearly labeled with safety concerns and be labeled with the common and scientific name of the species as well as the number of animals contained inside.
 - (2) Nonvenomous injurious reptiles in captivity must be kept in a cage or in a safety glass enclosure sufficiently strong, and in the case of a cage, of small enough mesh to prevent the animal's escape. All enclosures and access to them must be locked.
6. Primates:
- a. Any primate that is in the presence of persons other than the owner, handler, or immediate family must be under the direct control and supervision of the owner or handler at all times.
 - b. Importation for primates requires a certificate of veterinary inspection and an importation permit number issued by the board containing the following:
 - (1) Negative tuberculosis test within thirty days of importation into the state, with mammalian tuberculin used in testing.
 - (2) Negative hepatitis A test.
 - (3) Fecal sample tested negative for parasites, shigella, and salmonella.
 - (4) Statement that a primate has not shown signs of or been exposed to infectious disease in the last one hundred eighty days.
 - c. Requirements for maintaining a primate after importation:
 - (1) Negative tuberculosis test prior to renewal of license.

(2) Negative tuberculosis test within thirty days of change of ownership.

d. General housing requirements for primates:

(1) Primate housing must comply with title 9, Code of Federal Regulations, section 3.75.

(2) Primates must have a dedicated primary enclosure area, such as a room or cage-type enclosure, separate from other living areas of human occupants.

e. Space requirements for primates:

(1) Indoor primate enclosures must be at least two square feet [.19 square meter] per pound [.45 kilogram] of adult body weight per animal. This figure must be increased by fifty percent for each additional animal. The height of the primate primary enclosure area must be at least four times taller than the animal's body length.

(2) Primates kept outdoors must have a dedicated enclosure with a perimeter fence. The enclosure must include a roof, shelter from the elements, fence, and a lock on the enclosure. The dimensions of the outdoor enclosure must be at least as large as required for the indoor enclosure.

7. Nondomestic sheep and hybrids and nondomestic goats:

a. Import requirements for category 3 nondomestic sheep and nondomestic goats in addition to those listed in section 48.1-09-02-01:

(1) A certificate of veterinary inspection and importation permit number from the board.

(2) Official identification approved by the state veterinarian.

(3) Negative tuberculosis test within thirty days.

~~(4) Negative test for Brucella ovis by an official test approved by the state veterinarian within thirty days prior to importation.~~

~~(5) Negative test for Brucella abortus by two different official tests approved by the state veterinarian within thirty days prior to importation.~~

~~(6)~~ Animals must be free of any signs of scrapie as determined by an accredited veterinarian. The certificate of veterinary inspection must contain a written statement, signed by the consignor, stating that:

"To the best of my knowledge, the sheep listed on this certificate originate from a flock that has not been diagnosed as a scrapie-infected, source, or exposed flock in the past sixty months."

~~(7)~~(5) Special permission must be obtained from the board to possess nondomestic sheep and hybrids and nondomestic goats and hybrids south and west of the Missouri River.

b. Fencing requirements for category 3 nondomestic sheep and nondomestic goats:

(1) Fencing must be at least eight feet [2.44 meters] high and made of twelve-gauge or heavier woven wire, or other material of similar strength.

(2) The bottom of the fence must be at or below ground level.

- (3) Gates in the perimeter fence must be locked and there must not be more than six inches [\[15.24 centimeters\]](#) below or between gates.
- (4) A handling and holding facility, adequate to handle nondomestic sheep or goats, or both, must be in place.

History: Effective July 1, 2016; [amended effective July 1, 2024](#).

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12, 36-01-31

CHAPTER 48.1-10-01

48.1-10-01-01. Importation requirements - Certificate of veterinary inspection - Identification - Exemptions.

1. Poultry imported into the state, must be accompanied by an official certificate of veterinary inspection except:
 - a. Poultry consigned to a state or federally inspected slaughtering establishment.
 - b. Poultry granted an exception by the board, if in the determination of the state veterinarian the animals are free of contagious or infectious diseases.
 - c. Poultry leaving the state for exhibition or competition with a valid certificate of veterinary inspection may return to the state with the same certificate of veterinary inspection if the animal has not been out of the state for more than thirty days.
 - d. Other poultry as otherwise provided for by these rules.
 - e. Poultry hatching eggs and hatchlings less than five days of age which originate from national poultry improvement plan flocks certified as pullorum and fowl typhoid clean and avian influenza clean which may be imported on an electronic USDA-APHIS-VS Form 9-3 following approval of the hatchery by the state veterinarian.
2. Certificate of veterinary inspection for poultry must include an importation permit number issued by the state veterinarian before entering the state.
3. The state veterinarian may deny a request for an importation permit number if the state veterinarian has information that poultry:
 - a. Has not met the disease testing, vaccination, and identification requirements set forth in North Dakota Century Code title 36 or this title, or as otherwise required by the state veterinarian;
 - b. Has not met any pre-entry quarantine conditions imposed by law;
 - c. Has been exposed to, may have been exposed to, is infected with, or may be infected with any contagious or infectious disease;
 - d. Is or may originate from an area or premises under quarantine or other form of official or regulatory action relating to contagious or infectious disease; or
 - e. May be a threat to the health and well-being of the human or animal population of the state, or both.
4. Shipping containers of poultry must contain the official form or certificate.
5. In lieu of testing, the following statements, which apply to all poultry entering the state, must be included on the certificate of veterinary inspection and be signed by the accredited veterinarian and the owner or the owner's representative:
 - a. Pullorum and fowl typhoid (galliformes):

"To my knowledge, birds listed herein are not infected with pullorum or fowl typhoid and have not been exposed to birds infected with pullorum or fowl typhoid during the past twelve months."
 - b. Exotic Newcastle disease (viscerotropic, velogenic viruses):

"To my knowledge, birds listed herein are not infected with exotic Newcastle disease or psittacosis and have not been exposed to birds known to be infected with exotic Newcastle disease or psittacosis within the past thirty days."

c. Avian influenza:

"To my knowledge, birds listed herein are not infected with avian influenza and have not been exposed to birds known to be infected with avian influenza."

d. Avian tuberculosis:

"To my knowledge, birds listed herein are not infected with avian tuberculosis and have not been exposed to birds infected with avian tuberculosis during the last twelve months."

6. No avian species or avian products originating from areas under quarantine for exotic Newcastle disease or avian influenza may be imported, unless approved by the state veterinarian based upon epidemiological evaluation and risk assessment.
7. The state veterinarian may require additional disease testing, treatment, vaccination, or identification if the state veterinarian has reason to believe that other health risks are present.
8. Poultry that is infected, or recently exposed to any contagious or infectious disease, may not be imported into the state.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12, 36-14-04.1

48.1-10-01-03. Importation disease testing requirements.

Pullorum-typhoid disease.

1. Poultry over ~~five~~four months of age, imported for breeding purposes, must test negative for pullorum-typhoid disease within thirty days prior to entry into the state or originate from qualified flocks, unless originating from a disease-free area as determined by the state veterinarian.
2. Poultry under ~~five~~four months of age and hatching eggs imported or offered for sale in the state must originate from qualified flocks.
3. Pullorum-typhoid testing must be a method prescribed by the national poultry improvement plan and approved by the state veterinarian.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12

CHAPTER 48.1-11-01

48.1-11-01-02. Importation requirements - Certificate of veterinary inspection - Identification - Exemptions.

1. Sheep imported into the state must be accompanied by an official certificate of veterinary inspection ~~and an importation permit number~~ except:
 - a. Sheep originating directly from a producer's premises, not diverted en route, and consigned to an auction market approved by the board.
 - b. Sheep consigned to a state or federally inspected slaughtering establishment.
 - c. Sheep granted an exception by the board, if in the opinion of the state veterinarian the animals are free of contagious or infectious diseases.
 - d. Sheep leaving the state for exhibition or competition with a valid certificate of veterinary inspection may return to the state with the same certificate of veterinary inspection if the animal has not been out of the state for more than thirty days.
 - e. Other sheep as otherwise provided for by these rules.
2. ~~Certificate~~Certificates of veterinary inspection for sheep must include an importation permit number issued by the state veterinarian before entering the state. Sheep imported on a nationally approved electronic certificate of veterinary inspection platform, not originating in an area classified as infected by contagious disease, as determined by the board or state veterinarian, may be exempt from the requirement of an importation permit number.
3. The state veterinarian may deny a request for an importation permit number if the state veterinarian has information that sheep:
 - a. Have not met the disease testing, vaccination, and identification requirements set forth in North Dakota Century Code title 36 or this title, or as otherwise required by the state veterinarian;
 - b. Have not met any pre-entry quarantine conditions imposed by law;
 - c. Have been exposed to, may have been exposed to, is infected with, or may be infected with any contagious or infectious disease;
 - d. Are from or may originate from an area or premises under quarantine or other form of official or regulatory action relating to contagious or infectious disease; or
 - e. May be a threat to the health and well-being of the human or animal population of the state, or both.
4. Sheep entering the state must be officially identified by an official scrapie tag or by another method approved by the state veterinarian.
5. Sheep from foreign countries must be permanently officially identified with a method prescribed by the state veterinarian and an electronic identification compatible with the federal animal identification plan.
6. The state veterinarian may require additional disease testing, treatment, vaccination, or identification if the state veterinarian has reason to believe that other health risks are present.
7. Sheep infected, or recently exposed to any contagious or infectious disease, may not be imported into the state.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12, 36-14-04.1

48.1-11-01-03. Importation disease testing requirements.

1. Brucella ovis.

- a. Breeding rams ~~six~~twelve months of age or older imported into the state must have tested negative for brucella ovis within thirty days prior to entry;
- b. The flock of origin must have a negative brucella ovis status. To qualify a flock as a negative brucella ovis status flock, two negative tests for brucella ovis must have been administered, forty-five to sixty days apart, during the same year, to all rams one year of age or older, and thereafter a yearly negative test must have been administered to all rams in the flock one year of age or older;
- c. The state veterinarian may authorize the importation of registered breeding sheep and exempt them from the initial import requirements of this subsection. Registered breeding sheep imported by this authorization must be held under quarantine and isolated from other sheep until they have met the requirements of this subsection;
- d. Animals testing positive on a post-entry test must be euthanized and no indemnity is paid to the owner or the animals may be immediately returned to the state of origin; ~~or~~
- e. All tests for brucella ovis administered pursuant to this section must be tests officially recognized or otherwise approved by the state veterinarian; and
- f. Rams imported temporarily for exhibition and return to state of origin may be exempt from the test requirement.

2. Scrapie.

- ~~a. Sheep imported into the state must be determined to not be genetically susceptible as verified by two blood tests drawn under the supervision of an accredited veterinarian; or~~
- ~~b. The certificate of veterinary inspection must contain a written statement, signed by the owner of the sheep, stating that:

"To the best of my knowledge, the sheep listed on this certificate originate from a flock that has not been diagnosed as a scrapie-infected, source, or exposed flock in the past sixty months."~~

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12, 36-14-04.1

48.1-11-01-04. Disease control.

1. Anthrax.

- a. Sheep susceptible to anthrax located on farms where anthrax has been diagnosed shall be vaccinated. Animals must be quarantined for thirty days after the death of the last animal or thirty days following vaccination, whichever occurs last.
- b. Sale of hides removed from animals infected with anthrax is prohibited.

2. Brucella ovis.

- a. Flocks may be tested to obtain brucella ovis negative flock status.
 - b. To qualify a flock as a negative brucella ovis status flock, two negative tests for brucella ovis must have been administered, forty-five to sixty days apart, during the same year, to all rams one year of age or older, and thereafter a yearly negative test must have been administered to all rams in the flock one year of age or older.
3. Scrapie.
- a. Identification.
 - (1) The owner of a flock or the owner's agent officially shall identify all animals upon change of ownership to the flock of birth or the flock of origin, if the flock of birth cannot be determined. Sheep are required to be officially identified except:
 - (a) Slaughter sheep (sheep in slaughter channels) less than eighteen months of age. If a sexually intact sheep is sold at an unrestricted sale (any sale that is not a slaughter or feeding for slaughter sale), it must be identified.
 - (b) Wether sheep less than eighteen months of age.
 - (c) Animals shipped directly to an approved slaughter facility or an approved auction market, when all the animals in a section of a truck are from the same premises of origin and are accompanied by an owner's statement.
 - (d) Animals moved for grazing or similar management reasons whenever the animals are moved from a premises owned or leased by the owner of the animals to another premises owned or leased by the owner of the animals.
 - (2) An animal that is required to be individually identified or that originates from any area where, in the determination of the board, scrapie may exist may not be sold, transported, received for transportation, or offered for sale or transportation in intrastate commerce unless each animal is identified in accordance with this section.
 - (3) A person may not remove or tamper with any means of identification required to be on animals pursuant to this section while the animals are in intrastate commerce, and, at the time of slaughter, animal identification must be maintained throughout postmortem inspection.
 - (4) ~~Sheep that are scrapie-suspect, scrapie-positive, scrapie-exposed, and high-risk animals, including all low-risk exposed animals, genetically susceptible exposed animals, genetically less susceptible exposed animals, and genetically resistant exposed sheep must be identified as prescribed by the state veterinarian in consultation with USDA-APHIS-VS.~~
 - ~~(a) Tag application on these classes of sheep must be by, or under the supervision of, a USDA-APHIS-VS or the board or an accredited veterinarian.~~
 - ~~(b) All forms of identification on these classes of goats, must be recorded on an official USDA-APHIS-VS form or equivalent and forwarded to the designated scrapie epidemiologist, the state veterinarian, and USDA-APHIS-VS.~~
 - ~~b. Reporting and investigation.~~
 - ~~(1) Upon request by the board, the owner of a flock or the owner's agent shall have an accredited veterinarian collect and submit tissues from animals reported in~~

~~accordance with section 48.1-11-01-04 to a laboratory designated by an USDA-APHIS-VS or the board.~~

~~(2) Investigation. The board, an accredited veterinarian approved to conduct scrapie program activities, or an authorized USDA-APHIS-VS representative shall:~~

~~(a) Investigate animals reported as scrapie-suspect animals within seven days of notification.~~

~~(b) Designate a flock's status, within fifteen days of notification that the flock contains a scrapie-positive animal, based on an investigation by state or federal animal health authorities.~~

~~(c) Restrict the movement of newly designated scrapie-infected and source flocks within seven days after they are designated.~~

~~(d) Modify infected and source flock movement restrictions only after completion of a flock plan, and after agreement by the owner to comply with a sixty-month post-exposure management and monitoring plan.~~

~~(e) Conduct an epidemiological investigation of source and infected flocks, that includes the designation of high-risk and exposed animals, and that identifies animals to be traced.~~

~~(f) Conduct tracebacks of scrapie-positive animals and traceouts of high-risk and exposed animals and report any out-of-state traces to the appropriate state within forty-five days of receipt of notification of a scrapie-positive animal.~~

~~(g) Conduct tracebacks based on slaughter sampling within fifteen days of receipt of notification of a scrapie-positive animal at slaughter.~~

~~c. Disposition of flocks.~~

~~(1) Infected flock. In the event a flock is determined to be a scrapie-infected flock, the flock must be quarantined. The owner has the option of:~~

~~(a) Depopulating the flock; or~~

~~(b) Signing an agreement with the state-federal scrapie program administrators and agreeing to comply with requirements of title 9, Code of Federal Regulations, part 79.2, until the time the flock is no longer an infected flock.~~

~~(2) Source flock. If a flock is determined to be a scrapie-source flock, the flock must be quarantined. The owner has the option of:~~

~~(a) Depopulating the flock;~~

~~(b) Signing an agreement with the state-federal scrapie program administrators agreeing to comply with the requirements of title 9, Code of Federal Regulations, part 79.2, until the flock is no longer a source flock; or~~

~~(c) Implementing a flock plan that meets board approval.~~

~~(3) Exposed flock. Upon designation by the board as an exposed flock, the flock must be quarantined until the owner implements a flock plan that meets the state-veterinarian's approval. In the event a flock is determined to be a scrapie-exposed flock, the owner has the option of:~~

~~(a) Depopulating the flock; or~~

~~(b) Signing an agreement with the state-federal scrapie program administrators agreeing to comply with requirements of title 9, Code of Federal Regulations, part 79.2, until the time the flock is no longer an exposed flock.~~

~~d. Owner reporting requirements. The owner of a flock or the owner's agent shall immediately report to the board, USDA-APHIS-VS representative, or an accredited veterinarian any suspect animal. Such animal must not be removed from the flock without written permission by the state veterinarian.~~

~~e. Flock records disclosure:~~

~~(1) The owner of a flock or the owner's agent shall allow breed associations and registries, auction markets, and packers to disclose records to the board, to be used in an epidemiological investigation of source flocks, infected flocks, and exposed animals.~~

~~(2) The owner of a flock enrolled in the voluntary scrapie flock certification program described in title 9, Code of Federal Regulations, part 54, or the owner's agent, selling or otherwise disposing of breeding stock shall make animals in the flock and records required to be kept under paragraph (a)(2)(iv) of title 9, Code of Federal Regulations, part 79.2, available for inspection by USDA-APHIS-VS representatives or the board, given reasonable prior notice. The recommended scrapie eradication uniform methods and rules as they appear in publication of USDA-APHIS-VS are adopted and constitute a rule of the board, unless otherwise ordered by the board.~~

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-12; 9 CFR 54, 9 CFR 79.2

CHAPTER 48.1-12-01

48.1-12-01-02. Importation requirements - Certificate of veterinary inspection - Identification - Exemptions.

1. Swine imported into the state, must be accompanied by a certificate of veterinary inspection except:
 - a. Swine originating directly from a producer's premises, not diverted en route, and consigned to an auction market approved by the board.
 - b. Swine consigned to a state or federally inspected slaughtering establishment.
 - c. Swine granted an exception by the board, if in the determination of the state veterinarian the animals are free of contagious or infectious diseases.
 - d. Swine leaving the state for exhibition or competition with a valid certificate of veterinary inspection may return to the state with the same certificate of veterinary inspection if the animal has not been out of the state for more than thirty days.
 - e. Other swine as otherwise provided for by these rules.
2. ~~Certificate~~Certificates of veterinary inspection must include an importation permit number issued by the state veterinarian before entering the state. Swine imported on an approved electronic certificate of veterinary inspection platform, not originating from an area classified as infected with contagious disease by the board or state veterinarian, may be exempt from the requirement for an importation permit number.
3. The state veterinarian may deny a request for an importation permit number if the state veterinarian has information that swine:
 - a. Have not met the disease testing, vaccination, or identification requirements set forth in North Dakota Century Code title 36 or this title, or as otherwise required by the state veterinarian;
 - b. Have not met any pre-entry quarantine conditions imposed by law;
 - c. Have been exposed to, may have been exposed to, is infected with, or may be infected with any contagious or infectious disease;
 - d. Is or may originate from an area or premises under quarantine or other form of official or regulatory action relating to contagious or infectious disease; or
 - e. May be a threat to the health and well-being of the human or animal population of the state, or both.
4. Swine imported into the state must be identified and marked in a manner prescribed by the state veterinarian.
5. The state veterinarian may require additional disease testing, treatment, vaccination, or identification if the state veterinarian has reason to believe other health risks are present.
6. Swine that is infected, or recently exposed to any contagious or infectious disease, may not be imported.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12, 36-14-04.1

48.1-12-01-03. Importation disease testing requirements.

1. Brucellosis. Breeding swine over six months of age must have had a negative brucellosis test within thirty days prior to entry into the state unless they are imported from a validated herd or a validated state.
2. Pseudorabies. Imported swine must test negative for pseudorabies within thirty days prior to entry into the state or comply with one of the following:
 - a. Be from a stage V or stage IV state or area, as designated by the USDA-APHIS-VS;
 - b. Be from a qualified pseudorabies negative herd; or
 - c. Be from a feeder swine pseudorabies monitored herd as designated by USDA-APHIS-VS.
3. Transmissible gastroenteritis. The accredited veterinarian must declare in a statement on the certificate of veterinary inspection, "The premises the swine are originating from has not had any signs or a diagnosis of transmissible gastroenteritis in the last sixty days."
4. Porcine epidemic diarrhea virus. The accredited veterinarian must declare in a statement on the certificate of veterinary inspection, "The premises the swine are originating from has not had any signs or a diagnosis of porcine epidemic diarrhea virus in the last sixty days."

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08, 36-01-12, 36-14-04.1

CHAPTER 48.1-13-01

48.1-13-01-01. Importation requirements - Certificate of veterinary inspection - Identification - Exemptions.

1. Any dog, cat, or ferret imported into the state for a period of over thirty days must be accompanied by a certificate of veterinary inspection.
2. Any dog, cat, or ferret over ~~three months~~twelve weeks of age imported into the state must have a certification of a current rabies vaccination;
 - a. When any dog, cat, or ferret over ~~three months~~twelve weeks of age is imported from an area that is quarantined for rabies, a certifying statement is required from an accredited veterinarian that the dog, cat, or ferret has not been exposed to rabies.
 - b. A person may not import any dog, cat, or ferret less than ~~three months~~twelve weeks of age from an area under quarantine for rabies.
3. It is not a violation of this section to bring a dog, cat, or ferret from a bordering state into the state for the purpose of obtaining any vaccination or other health care from a licensed veterinarian or to an animal shelter for veterinary care.

History: Effective July 1, 2016; amended effective July 1, 2024.

General Authority: NDCC 36-01-08, 36-01-12

Law Implemented: NDCC 36-01-08, 36-01-12, 36-14-04.1

TITLE 67
PUBLIC INSTRUCTION, SUPERINTENDENT OF

JULY 2024

CHAPTER 67-10-02

67-10-02-06. Loan issuance.

The superintendent shall submit approved loan applications to the board and the board shall issue a loan from the coal development trust fund in the order submitted by the superintendent and terms as provided in subsection 4 of North Dakota Century Code section 15.1-36-02.

1. Minimum loan is two hundred fifty thousand dollars; maximum loan is ~~two~~five million dollars.
2. Term of the loan is twenty years, or less if requested by the district.
3. Interest rate may not exceed two percent per year.

History: Effective January 1, 2018; amended effective July 1, 2024.

General Authority: NDCC 15.1-36-02, 28-32-02

Law Implemented: NDCC 15.1-36-02

CHAPTER 67-10-03

67-10-03-02. Loan eligibility.

To be eligible for a loan a district must:

1. Obtain project approval from the superintendent pursuant to North Dakota Century Code section 15.1-36-01.
2. Propose a project for new construction or remodel with a cost of at least one million dollars and expected utilization of at least thirty years.
3. Publish information in the official newspaper regarding additional millage and dollar increase per one thousand dollars of taxable valuation along with the ~~notice~~:
 - a. Notice of election to authorize the school construction bond issuance; or
 - b. Initial resolution in accordance with subsection 7 of North Dakota Century Code section 21-03-07.
4. Post notice of the information on the district website.
5. Receive authorization for a bond issue under North Dakota Century Code chapter 21-03.
6. The board must submit a completed application to the Bank of North Dakota.
7. A district with a school construction loan secured on the open bond market may apply to refinance the loan when callable with the school construction assistance revolving loan fund.

History: Effective January 1, 2018; amended effective July 1, 2024.

General Authority: NDCC 15.1-36-01, 15.1-36-08, 21-03, 28-32-02

Law Implemented: NDCC 15.1-36-08

67-10-03-04. Loan issuance.

Upon approval of the superintendent, the Bank of North Dakota shall issue a loan from the school construction assistance revolving loan fund.

1. The maximum loan is ~~ten~~fifteen million dollars if the project is less than seventy-five million dollars. The maximum loan is thirty million dollars if the project is seventy-five million dollars or more.
2. If the school district's unobligated general fund balance on the preceding June thirtieth exceeds limitations set in North Dakota Century Code section 15.1-27-35.3, the maximum loan may not exceed eighty percent of the project cost up to a maximum loan of ~~eight~~twelve million dollars if the project is less than seventy-five million dollars. If the project exceeds seventy-five million dollars the maximum loan may not exceed eighty percent of the project cost up to a maximum loan of twenty-four million dollars.
3. The term of the loan is twenty years, or less at the request of the board.
4. The interest rate may not exceed two percent per year.

History: Effective January 1, 2018; amended effective July 1, 2024.

General Authority: NDCC 15.1-27-35.3, 15.1-36-01, 15.1-36-08, 28-32-02

Law Implemented: NDCC 15.1-36-08

TITLE 89
WATER COMMISSION

JULY 2024

CHAPTER 89-07-02

89-07-02-14. Application for permit.

Application for a weather modification permit must be made on forms furnished by the board. Every applicant must submit a properly executed application to the board. The application may contain such information as the board deems necessary, and must include the following information:

1. Name and address of the applicant.
2. Whether a weather modification operational permit issued to the applicant in any jurisdiction has ever been suspended or revoked or whether there has been refusal to renew a permit by any jurisdiction. Such circumstances must be explained in detail.
3. If the applicant is a corporation, whether it is licensed to do business in North Dakota.
4. Whether a license has been issued under North Dakota Century Code section 61-04.1-14, and if so, the names, addresses, and professional license numbers of the controllers.
5. Whether professional weather modification licenses issued to the license applicant in any jurisdiction have ever been suspended or revoked or whether there has been refusal to renew a license by any jurisdiction. Such circumstances must be explained in detail.
6. Whether proof of financial responsibility has been furnished under section 89-07-02-22 and North Dakota Century Code section 61-04.1-19.
7. If the operation will be conducted under a contract, the value of the contract.
8. If the operation will not be conducted under a contract, an estimate of the costs of the operation and information as to how the estimate was made.
9. Whether the applicant has paid the application fee.
10. Whether the applicant has North Dakota workforce safety and insurance coverage.
11. A copy of any promotional and advertising material used in connection with negotiations for the contract, if any.
12. Whether the applicant has furnished a performance bond, as required by subsection 3 of section 89-07-02-26.
13. Whether the applicant has furnished the bid bond, ~~as required by North Dakota Century Code section 61-04.1-35.~~

14. Whether the applicant has registered with the North Dakota aeronautics commission all aircraft to be used in the operation for which the permit is sought.
15. A complete and detailed operational plan for the operation that includes:
 - a. The nature and object of the operation.
 - b. The legal description and a map showing the operations area and the target area.
 - c. The approximate starting date of the operation and its anticipated duration.
 - d. The kind of seeding agents intended for use and the anticipated rate of their use.
 - e. A list of equipment that will be used and the methods of seeding for which they will be used.
 - f. An emergency shutdown procedure that states conditions under which operations will be suspended because of possible danger to the public health, safety, and welfare or to the environment.
 - g. The means by which the operation plans will be implemented and carried out such as:
 - (1) The location of the main operational office and any other offices used in connection with the operation;
 - (2) The location of such ground equipment as seeding generators, radar, and evaluation instrumentation;
 - (3) The number and kinds of aircraft that will be used;
 - (4) The extent to which weather data will be made available to the licensees; and
 - (5) Other-~~other~~ personnel carrying out the project.
 - h. How conduct of the operation will interact with or affect other weather modification operations.
16. Such additional information that will assist the board in deciding whether to issue the permit.

History: Effective November 1, 1988; amended effective July 1, 2006; July 1, 2014; [July 1, 2024](#).

General Authority: NDCC ~~28-32-02~~, 61-04.1-08(3)

Law Implemented: NDCC 61-04.1-16

CHAPTER 89-08-01

89-08-01-01. Definitions.

The following definitions apply in this article:

1. "Agricultural dike" means a dike capable of protecting land used for agriculture or similar purposes.
2. "Appurtenant works" means all works incident or attached to a dam, dike, or other device, including:
 - a. A spillway, either in the dam or separate from it;
 - b. The reservoir and its rim;
 - c. A low-level outlet; and
 - d. A water conduit, such as a tunnel, pipeline, or penstock, either through the dam, dike, or other device or their abutments.
3. "Capable of protecting" means flood-risk reduction to land, structures, or public infrastructure as the result of a dike.
- ~~2-4.~~ "Construction" or "construct" means any activity for which a permit is required by North Dakota Century Code section 61-16.1-38, including construction, alteration, enlargement, or modification of a dam, dike, or other device.
- ~~3-5.~~ "Dam" means any barrier, including any appurtenant works, constructed across a watercourse or an area that drains naturally to impound or attenuate the flow of water. All structures necessary to impound a single body of water are considered a single dam.
- ~~4-6.~~ "Department" is defined in North Dakota Century Code section 61-03-01.2.
- ~~5-7.~~ "Dike" means any artificial ~~barrier structures~~, including an embankment, floodwall, levee, or any appurtenant works, constructed ~~along a waterway or an area that drains naturally~~ with the primary intent to divert the flow of surface water to protect for real or personal property protection or to otherwise provide storm or flood-risk reduction resulting from flooding due to seasonally high water or precipitation.
- ~~6-8.~~ "Director" is defined in North Dakota Century Code section 61-03-01.2.
- ~~7-9.~~ "Diversion" means any open channel, culvert, or ditch constructed to reroute a watercourse as defined by North Dakota Century Code section 61-01-06.
- ~~8-10.~~ "Embankment" means a structure created by an artificial deposit of material upon the natural surface of the land that is designed to act as a water control device, support roads or railways, or for other similar purposes.
- ~~9-11.~~ "Engineer" means a person who has been duly registered and licensed as an engineer by the North Dakota state board of registration for professional engineers and land surveyors.
12. "Farmstead" means an individual rural or farm property including a single dwelling or associated buildings, and up to ten acres [4.05 hectares] of land.
13. "Farmstead ring dike" means a dike capable of protecting only a farmstead.

- | ~~40.14.~~ "Height" means the maximum vertical distance from the stream channel bottom or lowest elevation of a naturally draining area to the top of dam.
- | ~~41.15.~~ "High-hazard dam" means a dam with high-hazard potential where failure or misoperation will probably cause loss of human life.
- | ~~42.16.~~ "Holding pond, lagoon, or dugout" means any artificial, hydraulically disconnected structure, including any appurtenant works, constructed to store water.
- | ~~43.17.~~ "Inspection" means a visual or mechanical check, a measurement, a boring, or any other method necessary for determination of the adequacy of construction techniques, conformity of work with approved plans and specifications, or the safety and operating performance of a dam, dike, or other device.
- | ~~44.18.~~ "Low-hazard dam" means a dam with low-hazard potential where failure or misoperation results in no probable loss of human life and low economic losses.
- | ~~45.19.~~ "Medium-hazard dam" means a dam with medium-hazard potential where failure or misoperation results in no probable loss of human life but can cause economic loss, disruption of lifeline facilities, or can impact other concerns.
- | ~~46.20.~~ "Other device" means a water control structure, other than a dam or dike, including diversions and holding ponds, lagoons, or dugouts.
- | ~~47.21.~~ "Owner" means any person who owns, controls, operates, maintains, manages, or proposes to construct a dam, dike, or other device. For the purpose of a construction permit application, "owner" means the person who owns the property or interest in property where the dam, dike, or other device will be built.
- | ~~48.22.~~ "Significant-hazard dam" means the same as "medium-hazard dam" and may be used ~~interchangably~~ interchangeably.
- | ~~49.23.~~ "Top of dam" means the top of the settled embankment or the elevation of the uppermost surface of a nonembankment dam, excluding accessory features, such as railings.
- | ~~20.24.~~ "Unsafe dam, dike, or other device" means any such structure that threatens harm to life or property or is improperly maintained.

History: Effective November 1, 1989; amended effective January 1, 2015; January 1, 2023; July 1, 2024.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-16.1-38

CHAPTER 89-08-02 CONSTRUCTION PERMITS

Section

89-08-02-01	Determining the Capacity of Dams, Dikes, or Other Devices <u>if a Permit is Required</u>
<u>89-08-02-01.1</u>	<u>Exceptions to the Need for a Permit</u>
89-08-02-02	Contents of Application
89-08-02-03	Permit Does Not Absolve Liability for Damages
89-08-02-03.1	Time to Complete Construction of Structure
89-08-02-03.2	Extending Time to Complete Construction of Structure
89-08-02-04	Emergency Construction Permits
89-08-02-05	Extension of Emergency Construction Permits
89-08-02-06	Removal of Emergency Structures
89-08-02-07	As Built Plans

89-08-02-01. Determining ~~the capacity of dams, dikes, or other devices~~ if a permit is required.

1. The impounding capacity of a dam is calculated based upon the elevation at the top of dam. Storage below the existing adjacent ground surface is generally excluded from the capacity of a holding pond, lagoon, or dugout.
2. The ~~diverting capacity of~~ area protected by a dike is calculated based upon the area protected as measured from the effective top of dike. ~~If the absence of the dike could result in more than fifty acre-feet of water inundating the protected area, a permit is required.~~
3. The diverting capacity of a diversion is calculated based upon the runoff from the National Oceanic and Atmospheric Administration Atlas 14 twenty-five year, twenty-four hour, precipitation event.
4. No construction can begin until a construction permit is obtained.

History: Effective November 1, 1989; amended effective April 1, 2004; January 1, 2015; January 1, 2023; July 1, 2024.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-16.1-38

89-08-02-01.1. Exceptions to the need for a permit.

The provisions of North Dakota Century Code section 61-16.1-38 do not apply to the following works with the sole intent to provide an opening to permit water flow:

1. Highway, street, or road stream-crossings;
2. Private driveway culverts;
3. Approach-crossing culverts or bridges; and
4. Railroad-crossing culverts or bridges.

History: Effective July 1, 2024.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-16.1-38

89-08-02-02. Contents of application.

A completed construction permit application must include: plans and specifications as stipulated by the department; evidence establishing a property right for the property that will be affected by the

construction of the dam, dike, or other device; and any additional information required by the ~~the~~ department.

History: Effective November 1, 1989; amended effective June 1, 1998; April 1, 2004; January 1, 2015; January 1, 2023; July 1, 2024.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-16.1-38

89-08-02-04. Emergency construction permits.

A completed application for an emergency construction permit must be submitted to the department along with any additional information required by the department. If the director determines an emergency exists, the director may issue an emergency construction permit to construct a dam, dike, or other device capable of impounding, obstructing, or diverting more than fifty acre-feet [61674 cubic meters]of water. An emergency construction permit will expire in ~~six~~twelve months unless extended by the director under section 89-08-02-05.

History: Effective April 1, 2004; amended effective January 1, 2015; January 1, 2023; July 1, 2024.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-16.1-38

CHAPTER 89-08-04 OPERATION AND MAINTENANCE

Section

89-08-04-01	Operating Plan <u>Operation and Maintenance Manual</u>
89-08-04-02	Maintenance Plan [Repealed]
89-08-04-03	Emergency Action Plan

89-08-04-01. ~~Operating plan~~Operation and maintenance manual.

~~By the fifteenth of February of each year, the operator of a reservoir with a capacity of more than one thousand acre-feet must submit an operating plan for that year to the department. The department will review the operating plan, and if deficiencies or discrepancies exist, the department must notify the owner of the dam of the deficiencies or discrepancies. The owner of the dam must correct the deficiencies or discrepancies and return the corrected operating plan to the department within fourteen days of receiving notice of the deficiencies or discrepancies. The operating plan must be approved by the director before the operation of the dam. If the operator receives no response from the department within thirty days, the operating plan is approved.~~A medium-hazard or high-hazard dam owner must submit an operation and maintenance manual for the dam and the appurtenant works to the department. The manual must be maintained and updated on a regular basis, and copies of all updates must be submitted to the department. Dam owners must maintain their structures in an adequate manner.

History: Effective November 1, 1989; amended effective January 1, 2015; January 1, 2023; July 1, 2024.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-03-21

89-08-04-02. Maintenance plan.

Repealed effective July 1, 2024.

~~— Dam owners must maintain their structures in an adequate manner. The director may require the owner of a dam with a capacity of more than one thousand acre-feet to submit a maintenance plan for the dam and appurtenant works.~~

~~**History:** Effective January 1, 2015; amended effective January 1, 2023.~~

~~**General Authority:** NDCC 61-03-13~~

~~**Law Implemented:** NDCC 61-03-21~~

89-08-04-03. Emergency action plan.

~~The owner of a~~A high-hazard ~~or medium-hazard~~ dam owner must submit an emergency action plan for the dam to the department. The plan must be approved by the director. The plan must be maintained and updated on a regular basis, and copies of all updates must be submitted to the department.

History: Effective January 1, 2015; amended effective January 1, 2023; July 1, 2024.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-03-21

CHAPTER 89-10-01

89-10-01-04. Authorization.

Each project requires an authorization from the department before construction or operation, except as otherwise provided by these rules. Any department authorization may be modified at the department's discretion.

History: Effective November 1, 1989; amended effective August 1, 1994; April 1, 2008; April 1, 2009; July 1, 2014; January 1, 2023; July 1, 2024.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-33-02, 61-33-05

89-10-01-08. General permit standards.

The department may ~~approve, modify, or grant~~, deny, or condition any permit application. In deciding what action to take on a permit application, the department must consider the potential effects of the proposed project on the following:

1. Riparian owner's rights;
2. Recreation;
3. Navigation;
4. Aesthetics;
5. Environment;
6. Erosion;
7. Maintenance of existing water flows;
8. Fish and wildlife;
9. Water quality;
10. Cultural and historical resources; and
11. Alternative uses.

History: Effective November 1, 1989; amended effective April 1, 2008; July 1, 2014; January 1, 2023; July 1, 2024.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-33-02, 61-33-05

89-10-01-33. Baiting.

Except as otherwise provided in this chapter, placing or using bait to attract, lure, feed, or habituate wildlife to a bait location for any purpose is prohibited on sovereign lands. Bait includes grains, minerals, salt, fruits, vegetables, hay, or any other natural or manufactured feeds. Bait does not include the use of lures, scents, or liquid attractants for hunting or management activities conducted by the department. Bait may be used to lure and take furbearers when engaged in lawful trapping activities. Any person who violates this section must pay a one hundred dollar fee per occurrence.

History: Effective ~~April~~April 1, 2009; amended effective July 1, 2014; January 1, 2023.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-33-02, 61-33-05, 61-33-10

CHAPTER 89-14-01

89-14-01-03. Design flood frequency.

The following table provides the minimum design standard recurrence interval of the event for which each type of stream crossing must be designed. Nothing contained in this chapter is intended to restrict an entity from providing greater capacity.

Type of Crossing	State Highway System						County	
	Urban System		Rural System				Rural System	
	Regional	Urban Roads	Principal Arterial		Minor Arterial	Major Collector	Major Collector	Off ⁴ System
Interstate			Other					
Bridges & Reinforced Concrete Boxes	25 year ²	25 year ²	50 year ²	50 year ²	50 year ²	25 year ²	25 year ^{2, 3}	15 year ^{2, 3}
Roadway Culverts	25 year ²	25 year ²	50 year ²	25 year ²	25 year ²	25 year ²	25 year ^{2, 3}	15 year ^{2, 3, 5}
Storm Drains	10 year ¹	5 year ¹	10 year ²	10 year ²	10 year ²	10 year ²		
Underpass Storm Drains	25 year ¹	25 year ¹	50 year ²	25 year ²	25 year ²	25 year ²		

¹Discharges must be computed using the rational method or other recognized hydrologic methods.

²Discharges must be computed using United States geological survey report 2015-5096 or other recognized hydrologic methods.

³If an overflow section is provided, the pipes and the overflow section, in combination, must pass the appropriate design event within the headwater limitations provided in this chapter.

⁴Off system roads include all ~~township roads~~ nonmajor collector public roads open for public travel.

⁵For ~~township~~ public roads open for public travel under the jurisdiction of a board of township supervisors of a civil township, the recurrence interval is 10 years.

History: Effective May 1, 2001; amended effective July 27, 2001; January 1, 2015; January 1, 2023; July 1, 2024.

General Authority: NDCC 24-02-01.1, 24-02-01.5, 61-03-13

Law Implemented: NDCC 24-03-06, 24-03-08, 24-06-26.1

ARTICLE 89-15
WATERCOURSES

Chapter
89-15-01 Watercourse Determinations

CHAPTER 89-15-01
WATERCOURSE DETERMINATIONS

Section
89-15-01-01 Definitions
89-15-01-02 Identifying a Watercourse
89-15-01-03 Information to Use in Making a Watercourse Determination
89-15-01-04 Making a Watercourse Determination

89-15-01-01. Definitions.

Unless the context otherwise requires, the following definitions apply:

1. "Artificial watercourse" means a watercourse that was formed by artificial construction but maintained by natural causes, such as a natural watercourse that is straightened but still receives the same contributing runoff prior to its straightening.
2. "District" means water resource district.
3. "Natural watercourse", except as used in North Dakota Century Code section 61-32-03.1, means a watercourse that was formed and maintained by natural causes.
4. "Watercourse" is defined in North Dakota Century Code section 61-01-06. Other terms that are synonymous with watercourse are river, stream, creek, or channel. Watercourses may be natural or artificial.

History: Effective July 1, 2024.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-01-06

89-15-01-02. Identifying a watercourse.

For a watercourse to be constituted, the following criteria must be considered. No one criteria alone will constitute a watercourse, but rather a comprehensive review of the criteria provides the information necessary for a watercourse determination.

1. Sufficient natural and accustomed flow must be present or possible. This means the flow must be from a natural source, such as precipitation, snowmelt, or a natural spring, and must regularly or frequently occur during normal hydrology years.
2. A distinct and defined channel must be maintained by natural and accustomed flows. It is not necessary that the channel be natural or created by natural causes, but the flow in the channel must be sufficient enough to maintain the channel without routine artificial maintenance, including removal of silt, sediment, and vegetation.
3. A distinct and defined channel must have a definite bed and banks. It is not necessary that the banks be well defined or sharply cut, but they must be easily discernable in times of little vegetative cover and have some capacity to carry flowing water.

4. A plainly defined channel must be present and easily discernable.
5. A channel of permanent character must be present and evident upon site inspection and review of aerial photography. The channel must have existed in that location for several years or have the high likelihood of existing there for several years in the case of a recently constructed artificial watercourse.
6. The land use of the site in question may play a role, including whether the land is routinely used for agricultural purposes and if agricultural crops would be injured by any received waters.

History: Effective July 1, 2024.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-01-06

89-15-01-03. Information to use in making a watercourse determination.

1. Data or information to be utilized includes the following:
 - a. Relevant and readily available aerial photography.
 - b. Mapping products including United States geological survey quads, LiDAR data, general land office notes, and existing surveys.
2. Information collected or observed during a site visit, including notes, photos, and simple surveying exercises, if warranted.
3. Any other information that may assist in a determination, including:
 - a. A hydrology analysis of the watershed that provides the watershed area contributing to the site and flow quantity and flow frequency to expect at the site.
 - b. Any court case history involving watercourse determinations.
 - c. Any further scientific justification necessary, including analyzing channel forming velocities, soil types, sediment transport, and geomorphology.

History: Effective July 1, 2024.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-01-06

89-15-01-04. Making a watercourse determination.

Water resource districts may determine if a watercourse is constituted by definition if the district needs to identify a watercourse as part of its powers, authority, or responsibilities under North Dakota Century Code title 61. If a district requests a watercourse determination from the department according to section 61-01-06, the department's decision is final and subject to appeal under North Dakota Century Code section 61-03-22. Watercourse determinations need not be formally made if they are made in conjunction with a permitting or complaint or appeal decision under North Dakota Century Code title 61, unless requested by a district under section 61-01-06. The department must provide a formal determination if requested by a district under section 61-01-06.

History: Effective July 1, 2024.

General Authority: NDCC 61-03-13

Law Implemented: NDCC 61-01-06