

NORTH DAKOTA ADMINISTRATIVE CODE

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Prepared by the Legislative Council staff
for the
Administrative Rules Committee



TABLE OF CONTENTS

STAFF COMMENT: The Table of Contents was reprinted to reflect rule changes in the Code.

TITLE 73

SECURITIES COMMISSIONER

Article

73-01 General Administration
73-02 Securities Act of 1951
73-03 Franchise Investment Law
73-04 Oil, Gas, or Mineral Brokers
73-05 Pre-need Funeral Services

TITLE 74

SEED COMMISSION

Article

74-01 General Administration
74-02 Seed
74-03 Seed Certification Standards
74-04 Seed Potato Certification Standards
74-05 Wholesale Potato Dealers
74-06 Commodity Standards

TITLE 75

SOCIAL SERVICE BOARD

Article

75-01 General Administration
75-02 Economic Assistance
75-03 Community Services

TITLE 76

SOIL CLASSIFIERS,
BOARD OF REGISTRATION FOR PROFESSIONAL

Article

76-01 General Administration
76-02 Professional Soil Classifier Licensure

TITLE 77

SOIL CONSERVATION COMMITTEE

Article
77-01 General Administration

TITLE 78

STATE FAIR ASSOCIATION

TITLE 79

SUNFLOWER COUNCIL

Article
79-01 General Administration
79-02 Council Operations

TITLE 80

TAX APPEALS BOARD

Article
80-01 General Administration

TITLE 81

TAX COMMISSIONER

Article
81-01 General Administration
81-02 Property Taxes
81-03 Income Taxes and Privilege Taxes Based on Income
81-04 Sales and Use Taxes
81-05 Motor Vehicle Excise Tax
81-06 Motor Fuel Tax
81-07 Estate Tax
81-08 Coal Taxes

TITLE 10
ATTORNEY GENERAL

STAFF COMMENT: Article 10-04 contains all new material.

ARTICLE 10-04
Games of Chance
(No-Rules-Promulgated)

ARTICLE 10-04
GAMES OF CHANCE

Chapter	
10-04-01	General Regulations for the Conduct of Games
10-04-02	Games of Chance Allowed
10-04-03	Disposal of Net Proceeds
10-04-04	Deductible Expenses
10-04-05	Gaming Tax and Tax Returns
10-04-06	Methods, Procedures, and Minimum Standards for Accounting and Recordkeeping
10-04-07	Regulations Governing Distributors

CHAPTER 10-04-01
GENERAL REGULATIONS FOR THE CONDUCT OF GAMES

Section	
10-04-01-01	Definitions
10-04-01-02	Conduct of Games Restricted to Licensed Premises
10-04-01-03	Sale of Raffle Tickets Restricted to Licensed Premises

10-04-01-01. DEFINITIONS. For the purpose of administering section 7 of chapter 531 of the 1979 Session Laws, the foregoing terms as used in that section shall have the following meanings:

1. "Equipment rented at a reasonable rate" is limited to bingo equipment and a receptacle for conducting a raffle.
2. "Member" includes a bona fide employee of an eligible organization.
3. "The usual price of equipment, prizes, and supplies" means the prevailing wholesale selling price of such items in the gaming industry nationally, adjusted for freight and other overhead

burden germane to the state of North Dakota.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 7

10-04-01-02. CONDUCT OF GAMES RESTRICTED TO LICENSED PREMISES. No game of chance shall be held, operated, or conducted by an eligible organization licensed by the attorney general on premises or a site other than as set forth on the license.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 7

10-04-01-03. SALE OF RAFFLE TICKETS RESTRICTED TO LICENSED PREMISES. Licensed eligible organizations are prohibited from conducting a raffle or soliciting the sale of raffle tickets off the premises of the eligible organization.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 7

CHAPTER 10-04-02
GAMES OF CHANCE ALLOWED

Section	
10-04-02-01	Only Those Games as Defined Allowed
10-04-02-02	Bingo
10-40-02-03	Raffles
10-04-02-04	Pull Tabs and Punchboards
10-04-02-05	Sports Pools
10-04-02-06	Games to Display State Stamp
10-04-02-07	Checks to Note State Serial Number

10-04-02-01. ONLY THOSE GAMES AS DEFINED ALLOWED. Notwithstanding descriptions of various games of chance found in chapter 531 of the 1979 Session Laws, the following games of chance, as defined, shall be the only games permitted to be conducted by eligible organizations.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 8

10-04-02-02. BINGO. "Bingo" means that game of chance in which each participant receives one or more cards each of which is marked off into twenty-five squares arranged in five horizontal rows of five squares each and five vertical rows of five squares each. Each square is designated by number, letter, or combination of numbers and letters, no two cards being identical. The players cover squares as the operator of such game announces the number, letter, or combination of numbers and letters appearing on an object selected by chance, either manually or mechanically, from a receptacle in which have been placed objects bearing numbers, letters, or combinations of numbers and letters corresponding to the system used for designating the squares. The winner of each game is the player or players first properly covering a predetermined and announced pattern of squares on a card being used by the player or players.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 8

10-04-02-03. RAFFLES. "Raffle" means a game of chance in which the prize or prizes, other than cash, are won by one or more of numerous persons buying chances. The winner is determined by drawing a number or numbers from a container holding numbers representative of all chances sold. The date of the drawing, the prize or prizes to be awarded, the name of the organization, the name of the licensing or authorizing authority, the license or authorizing resolution number, and the price of the chance shall be clearly printed on the raffle tickets which shall be numbered consecutively.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 8

10-04-02-04. PULL TABS AND PUNCHBOARDS.

1. "Pull tab" is a single-folded or banded ticket or is a card, the face of which is initially covered or otherwise hidden from view to conceal a number, symbol, or set of symbols, a few of which numbers or symbols out of every set of pull tabs have been designated in advance and at random as prize winners, for which, for the opportunity to obtain each such folded or banded ticket or card, view the numbers or symbols thereon, and possibly obtain a prize-winning pull tab, a person pays some consideration to an operator.
2. "Punchboard" means a board or device containing a number of holes or receptacles of uniform size in which are placed mechanically and at random serially numbered slips of paper or other substance which may be punched or drawn from said hole or receptacle by any person desiring to do so, and which the public, upon payment of a consideration, may punch or draw such numbered slips of paper or other substance from such holes or receptacles and obtain an award if the number drawn corresponds to a winning number.
3. No deal of pull tabs, and no punchboard, shall be discarded once such deal or punchboard has been offered for sale unless all of the highest denomination of winners have been sold. "Deal" means each separate serialized package of pull tabs purchased from a distributor.
4. Individual deals of pull tabs may be commingled in one receptacle subject to all of the following provisions:

- a. The deals are identical as to a particular type of game of chance.
- b. Each deal is identified by its own flare displaying the state identification stamp and manufacturer's serial number.
- c. The flares applicable to each deal are identical as to:
 - (1) Price per ticket;
 - (2) Amount of prizes; and
 - (3) Denominations of prizes.
- d. The receptacle displays the flares for all the deals inserted.
- e. The commingled deals are placed into play and removed from play within one taxable quarter period and the reporting of the results of such games are made in the same quarter period tax returns.
- f. All of the highest denominations of winning prizes for all deals commingled are awarded within the taxable quarter period.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, §§ 8, 9

10-04-02-05. SPORTS POOLS.

1. "Sports pools" means a sheet of paper, cardboard, or similar material on which is printed a square. This is divided equally into one hundred squares consisting of ten rows of ten squares running both horizontally and vertically. Along the exterior line of the top of the master square, the numerical designations zero, one, two, three, four, five, six, seven, eight, and nine are randomly assigned to each of the vertical rows. The same procedure is applied to the left side of the master square for the horizontal rows.

Each of the horizontal and vertical numerical assigns are to be covered by a tape of such design so that once disturbed any other recovering shall be conspicuously noticeable.

The words "sports pool" are to be conspicuously headed at the top of the device. There shall also be placed conspicuously on the device a designation:

PRICE PER SQUARE \$-----
AMOUNT OF PAYOFF \$-----

Each of the contestants in the professional sporting event is designated along either the vertical or horizontal rows of numbers by the operator of the gaming device. All one hundred squares must be sold at a price not to exceed five dollars per square and such price is to be inserted in the appropriate space on the device prior to selling such squares. The purchaser of a square places the purchaser's name in that square. The winner of the pool is determined, at the conclusion of the sporting event, by removing the tapes covering the numbers assigned each row and determining the square at the juncture of the horizontal row and vertical row containing the numbers of the outcome of the sporting event in accordance with the rules posted by the operator of the gaming device.

2. The device so constructed shall be acquired only from licensed distributors.
3. The operator of the sports pool may determine the method of payout to the participants according to rules posted prior to the start of the sports event associated with the pool so long as the total payout does not exceed two-thirds of the gross proceeds of the pool. (For example, winners of a pool conducted for a particular football game may be determined at the end of each quarter of the game according to the score at that point. The payout each quarter need not be in direct proportion to the total two-thirds payout.)

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 10

10-04-02-06. GAMES TO DISPLAY STATE STAMP. No deal of pull tabs, punchboard, or sports pool shall be displayed unless the flare shall have attached a North Dakota state gaming stamp which has been previously affixed thereto by a licensed distributor of equipment for games of chance. A "flare" is the posted display which sets forth the

rules of a particular game of chance. It is associated with or a part of, each particular deal of pull tabs, punchboard, or sports pool.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 17

10-04-02-07. CHECKS TO NOTE STATE SERIAL NUMBER. In the case of pull tabs, punchboards, and sports pools, a prize paid by check shall note the North Dakota state stamp serial number assigned to the flare for the game to which the prize applies.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531. § 17

Law Implemented
S.L. 1979,
Ch. 531. § 11

CHAPTER 10-04-03
DISPOSAL OF NET PROCEEDS

Section	
10-04-03-01	Period Within Which Net Proceeds must be Disbursed
10-04-03-02	Payment of Net Proceeds by Consecutively Numbered Checks
10-40-03-03	Licensed Organizations not to Receive Funds from Donees

10-04-03-01. PERIOD WITHIN WHICH NET PROCEEDS MUST BE DISBURSED. Under prior law, which expired June 30, 1979, the entire net proceeds were required to be devoted within one year from the date such proceeds were earned. To provide for the transition to the provisions, and rules thereunder, of chapter 531 of the 1979 Session Laws, the following procedure shall apply:

1. Beginning July 1, 1979, net proceeds earned during any quarter must be devoted by the last day of the following quarter.
2. Net proceeds earned between January 1, 1979, and June 30, 1979, must be devoted by December 31, 1979.
3. Quarters shall be identified, and begin and end as follows:

<u>Quarter #</u>	<u>Begins</u>	<u>Ends</u>
1	January 1	March 31
2	April 1	June 30
3	July 1	September 30
4	October 1	December 31

4. "Devoted" means an unrestricted disbursement by check from the special gambling account provided in North Dakota Century Code section 53-06.1-11.
5. "The date such proceeds were earned" is deemed to be the last day of quarter in which earned.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 7

10-04-03-02. PAYMENT OF NET PROCEEDS BY CONSECUTIVELY NUMBERED CHECKS. All net proceeds devoted to permissible uses shall be withdrawn from such account by consecutively numbered checks.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 11

10-04-03-03. LICENSED ORGANIZATIONS NOT TO RECEIVE FUNDS FROM DONEES. No eligible organization licensed by the attorney general shall accept any payment, gift, or other thing of material value from a recipient or potential recipient of net proceeds of its games of chance whether it be before or after such net proceeds are devoted.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, §§ 11, 17

CHAPTER 10-04-04
DEDUCTIBLE EXPENSES

Section	
10-04-04-01	Definitions
10-04-04-02	Eligible Deductions to be in Accordance with Chapter
10-04-04-03	Payment and Reconcilement of Expenses
10-04-04-04	Sales Taxes Deductible
10-04-04-05	Compensation of Manager as Deductible Expense
10-04-04-06	Rental Fees Allowed
10-04-04-07	Excess of Allowable Expenses to be Paid from Organization's General Funds

10-04-04-01. DEFINITIONS. For the purpose of administering section 11 of chapter 531 of the 1979 Session Laws, the foregoing terms found in that section shall have the following meanings:

1. "Accountants' fees" means reasonable fees paid for independent accounting services necessary for the completion of the North Dakota state gaming tax return.
2. "Compensation" means wages, salaries, bonuses, and all other forms of remuneration for services rendered.
3. "Each such occasion" means the adjusted gross proceeds of each quarterly period defined under section 12 of chapter 531 of the 1979 Session Laws.
4. "License fees" means the fee paid in accordance with section 3 of chapter 531 of the 1979 Session Laws, the quarterly tax computed under section 12 of chapter 531 of the 1979 Session Laws; and any stamp or excise tax assessed by the internal revenue service because of, and directly related to, gambling activities. Penalties are not allowable as deductions.
5. "Necessary goods, wares, and merchandise" means bingo equipment, jars, pull tabs, punchboards, sports pool boards, and raffle tickets purchased from a licensed distributor; and articles of a minor nature such as pencils, crayons, tickets, envelopes, paper clips, and coupons necessary to the conduct of games of chance. Expenditures for gambling equipment of a capital nature used exclusively for gambling and not adaptable for other nongambling uses (for example, a bingo machine) may be either expensed or depreciated over a reasonable estimated life on a straight-line basis at the election of the eligible organizations.

Cash prizes or the purchase price of merchandise, prizes, or both, are not to be included under this heading.

6. "Services for operating or conducting games of chance" means reasonable compensation to members directly engaged in conducting or assisting in conducting games of chance. Where the member performs other services unrelated to gaming activities, an allocation based on hours worked in each activity shall be made. Such term includes all employer paid benefits and payroll taxes or prorata allocations thereof.
7. "Services necessary for repair of equipment" means both labor and material for the repair of gambling equipment only.
8. "Utility expenses" means an allocable share of those expenditures for water, electricity, and heating fuel made by the eligible organization for the premises on which gambling is conducted. The allocation shall be made by multiplying the total of the utility expenditures for the quarter period by a factor, the numerator of which is the quarterly gross gambling receipts reported on the North Dakota state gaming tax return and the denominator is the gross revenues generated by the eligible organization from all sources for the same quarterly period. However, the factor may not exceed fifty percent.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 11

10-04-04-02. ELIGIBLE DEDUCTIONS TO BE IN ACCORDANCE WITH CHAPTER. Notwithstanding the exclusions from bona fide expenses under the statutes, eligible deductions to arrive at net proceeds shall be determined in accordance with this chapter.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 11

10-04-04-03. PAYMENT AND RECONCILEMENT OF EXPENSES. Where allowable expenditures are not paid directly from the special gambling account, as in the case of the allocation of utility expenses, reimbursement to the disbursing fund from the gambling account shall be made by the due date of the quarterly North Dakota gaming tax return.

By so doing, the special gambling account shall be in reconciliation with the entire net proceeds balance.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 11

10-04-04-04. SALES TAXES DEDUCTIBLE. Sales taxes imposed on allowable expenditures are deductible as part of the cost of items expensed.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
CH. 531, § 11

10-04-04-05. COMPENSATION OF MANAGER AS DEDUCTIBLE EXPENSE. In the case of compensation for the club manager or other compensated member to whom the overall management responsibility has been delegated, ten percent of such compensation shall be deemed "directly" engaged in the conduct of games of chance.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979
Ch. 531, § 11

10-04-04-06. RENTAL FEES ALLOWED. Only those rental fees for premises where gaming activities are conducted or gaming equipment paid to bona fide lessors unrelated to the eligible organization are deductible. Therefore, no allocation may be made to auxiliaries, holding companies, operating organizations, or other associated groups. All rental payments must be reasonable in amount and shall not be determined in relation to gambling proceeds whatsoever. Where rented premises are also used for activities other than gambling, an allocation shall be made. See subsection 8 of section 10-04-04-01 for the factor to be applied. If the premises are owned by the eligible organization, an allocable share of reasonable janitorial services shall be allowed.

See subsection 8 of section 10-04-04-01 for factor to be applied but not to exceed fifty percent.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 11

10-04-04-07. EXCESS OF ALLOWABLE EXPENSES TO BE PAID FROM ORGANIZATION'S GENERAL FUNDS. If the allowable deductions for expenses to arrive at net proceeds are less than actual expenses for the quarter period, such deficiency shall be required to be deposited to the special account from the eligible organization's general funds by the due date of the North Dakota gaming tax return.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 11

CHAPTER 10-04-05
GAMING TAX AND TAX RETURNS

Section	
10-04-05-01	Due Date for Filing Tax Return
10-04-05-02	Only One Return Allowed
10-40-05-03	Extensions for Good Cause
10-04-05-04	Attorney General to Determine Accuracy of Return
10-04-05-05	Preparer May Elect Method of Accounting

10-04-05-01. DUE DATE FOR FILING TAX RETURN. A North Dakota gaming tax return and accompanying tax shall be completed and filed as follows:

<u>Quarter Ended:</u>	<u>Filed Not Later Than:</u>
September 30, 1979	October 31, 1979
December 31, 1979	January 31, 1980
March 31, 1980	April 30, 1980
June 30, 1980	July 31, 1980
September 30, 1980	October 31, 1980
December 31, 1980	January 31, 1981
March 31, 1981	April 30, 1981
June 30, 1981	July 31, 1981

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 12

10-04-05-02. ONLY ONE RETURN ALLOWED. Only one return shall be filed for each license issued by the attorney general. Operations of an auxiliary, holding company, etc., must be consolidated.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 12

10-04-05-03. EXTENSIONS FOR GOOD CAUSE. Extensions for filing may be granted for good cause with the approval of the attorney general by filing a written request setting forth the reason for the request. If a request is denied, a return shall be due within fifteen days from the date of the denial letter. Extensions to file do not extend the date for devoting the net proceeds.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 11

10-04-05-04. ATTORNEY GENERAL TO DETERMINE ACCURACY OF RETURN. The attorney general shall have the authority to verify and determine the accuracy of any or all items reported on the return; to ascertain the propriety of any or all prizes, expense deductions, and distributions of net proceeds; to determine the correct tax liability; and to prepare delinquent returns. Failure to timely pay the tax due shall be a violation of section 17 of chapter 531 of the 1979 Session Laws.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 12

10-04-05-05. PREPARER MAY ELECT METHOD OF ACCOUNTING. The licensed organization shall elect the method of accounting for the expenses deducted from adjusted gross proceeds to arrive at net proceeds. The election shall be made on the first return filed by the licensed organization under this provision of the law and once made, shall be binding on all subsequent returns. The election shall apply to all deductible expenses, with the exception of the state gaming tax which shall always be on the accrual basis.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 12

CHAPTER 10-04-06
METHODS, PROCEDURES, AND MINIMUM STANDARDS
FOR ACCOUNTING AND RECORDKEEPING

Section

10-04-06-01 Books and Records to be Kept
10-04-06-02 Records Retained

10-04-06-01. BOOKS AND RECORDS TO BE KEPT. Every eligible organization conducting a game or games of chance and every distributor of gaming devices shall maintain adequate books and records so that the licensing authority shall be able to readily ascertain compliance with the statutes and the rules thereunder. At a minimum such records shall include:

1. Member-guest register: a daily recording of the name and address of each guest and name of the sponsoring member.
2. Receipts journal: a daily recording summarizing the activities of each gaming device shall be maintained and a cash reconciliation for each deal shall be maintained. In the case of pull tabs, the daily recording shall identify those deals that are commingled together. In the instance where two or more commingled games are being conducted simultaneously, each of the games shall identify the groupings of individual deals.
3. Bank statements, canceled checks, deposit slips, and bank debit and credit memorandums for the special gaming account.
4. Schedules: necessary information to determine the computations required for certain expense deductions under chapter 10-04-04, regarding allowances for depreciation; allowances for services of bona fide employees; and allowances for janitorial services and utility expenses.
5. Original purchase invoices: for all expenditures from the special gaming account. Where reimbursement is made to the eligible organization for allocable expenses as in the case of utilities expenses, an accounting from such organization detailing the gross expenditures and made a part of the appropriate schedule shall be acceptable in lieu of the original invoices.
6. Minutes of the governing board authorizing the devoting of net proceeds.

7. Gaming devices. Games, once offered for sale and subsequently removed for any cause, shall be retained for a period of one year. With the exception of bingo and raffles, all winning tickets for which a prize has been paid, together with all unopened and unsold tickets and punches shall be associated with the flare reflecting the state stamp and manufacturer's serial number for that game.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 13

10-04-06-02. RECORDS RETAINED. The records described in section 10-04-06-01 shall be retained for the duration of the current law, and for six months thereafter, with the exception of gaming devices, which are governed by subsection 7 of section 10-04-06-01.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 13

CHAPTER 10-04-07
REGULATIONS GOVERNING DISTRIBUTORS

Section	
10-04-07-01	Information to be Furnished with Application
10-04-07-02	Restrictions on Distributorship Interests
10-04-07-03	Marking and Identification of Merchandise Sold
10-04-07-04	Books and Records to be Kept
10-04-07-05	Attorney General May Examine Books and Records
10-04-07-06	Distributors to Sell Only to Licensed Organizations
10-04-07-07	Distributors to Report Information

10-04-07-01. INFORMATION TO BE FURNISHED WITH APPLICATION.

1. A "Distributor Personnel Supplemental Form" shall be completed and filed with the distributor license application for each of the persons having an interest in the distributorship. Those persons are the officers, directors, and shareholders if the distributor is a corporation; the partners if the distributor is a partnership; and the proprietor if the distributor is an individual proprietor. The forms will be furnished by the attorney general.
2. When new officers, directors, shareholders, or partners become part of a distributorship between April first and March thirty-first a "Distributor Personnel Supplemental Form" shall be submitted by each such person within thirty days of their association with the distributorship. When there is an addition to or change in information previously submitted on a "Distributor Personnel Supplemental Form", such addition or change shall be submitted within thirty days.
3. The names and addresses of all employees, agents, and persons engaged in the business of the distributor other than officers, directors, shareholders, partners, and proprietors shall be submitted with the distributor license application.
4. When a distributorship adds new employees, agents, or other persons between April first and March thirty-first, the names and addresses of such persons shall be submitted within ten days of their association with the distributorship. When

there is a change in a name or address that was previously submitted, the change shall be submitted within ten days.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 14

10-04-07-02. RESTRICTIONS ON DISTRIBUTORSHIP INTERESTS. No organization which is licensed or authorized to conduct games of chance shall be a distributor. No person who is an officer, director, or manager of any such licensed or authorized eligible organization shall be an officer, director, shareholder, partner, proprietor, or employee of a distributorship, nor shall such person have any financial interest whatsoever in such distributorship. No person who is an officer, director, shareholder, partner, or proprietor of a wholesale alcoholic beverage business shall be an officer, director, shareholder, partner, proprietor, or employee of a distributorship, nor shall such person have any financial interest whatsoever in such distributorship.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 14

10-04-07-03. MARKING AND IDENTIFICATION OF MERCHANDISE SOLD.

1. The manufacturer's serial number shall appear on all gaming devices. The name of the club, club number, or other information may appear on such devices but only in addition to and not in replacement of, the manufacturer's serial number. Serial numbers may not be special ordered, but shall be as provided by the manufacturer in its ordinary course of business.
2. A distributor shall be responsible for placing a state identification stamp on all pull tab, punchboard, and sports pool board merchandise that is sold or otherwise disposed to organizations licensed or authorized to conduct games of chance. Stamps will be furnished to each distributor by the attorney general. The stamps will be consecutively numbered. There will be a space on the stamp to write in the serial number appearing on the merchandise. The distributor shall write in such serial number and affix the stamps before making delivery to any licensed or authorized organization. No deal

of pull tabs, no punchboard, and no sports pool board shall be sold or otherwise disposed unless a stamp shall first be affixed thereto.

3. Each deal of pull tabs shall have the stamp affixed to the front of a flare which will be furnished to the purchaser with each such deal.
4. Each punchboard shall have the stamp affixed to the front of the punchboard.
5. Each sports pool board shall have the stamp affixed to the front of the sports pool board.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 14

10-04-07-04. BOOKS AND RECORDS TO BE KEPT. Each distributor shall maintain records that contain the following information relative to the purchase and sale of gaming equipment and materials, such records shall be kept for the duration of the law and six months thereafter:

1. Purchase invoices for all gaming merchandise purchased for distribution to licensed or authorized organizations.
2. Sales invoices for all gaming merchandise distributed to licensed or authorized organizations. The sales invoices shall be on a standard form prescribed by the attorney general, and shall have the following information as a minimum:
 - a. Date shipped.
 - b. Invoice number.
 - c. The name and address (city or town) of the licensed or authorized eligible organization.
 - d. License or permit number of the organization.
 - e. Quantity (by deals for pull tabs, by the number of boards for punchboards and sports pools).
 - f. Description of merchandise.
 - g. Gaming stamp numbers.

3. A gaming stamp log in which the gaming stamp numbers and the manufacturer's serial numbers are recorded. The log will be maintained in such manner that the manufacturer's serial numbers of the merchandise and the gaming stamp numbers affixed thereto can be ascertained.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 14

10-04-07-05. ATTORNEY GENERAL MAY EXAMINE BOOKS AND RECORDS. The attorney general and his agents shall have the power to examine or cause to be examined the books and records of any distributor to the extent that such books and records relate to any transaction connected to the sale of gaming equipment and materials in the state of North Dakota or to information that is required to be furnished to the attorney general under the statutes and regulations pertaining to games of chance, and no distributor shall prohibit, interfere with, or otherwise impede such examination, but shall cooperate and assist with such examination, and provide such information as may be requested.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 14

10-04-07-06. DISTRIBUTORS TO SELL ONLY TO LICENSED ORGANIZATIONS. No distributor shall sell or otherwise dispose of merchandise to any organization which has not first been licensed by the attorney general or authorized by the local governing body to conduct games of chance.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 14

10-04-07-07. DISTRIBUTORS TO REPORT INFORMATION. Each distributor shall file a copy of each sales invoice, as described in subsection 2 of section 10-04-07-04, with the attorney general by the

tenth day of the month following the month in which such invoice was prepared.

History: Effective October 1, 1979.

General Authority
S.L. 1979,
Ch. 531, § 17

Law Implemented
S.L. 1979,
Ch. 531, § 14

TITLE 13

BANKING AND FINANCIAL INSTITUTIONS, DEPARTMENT OF

STAFF COMMENT: Section 13-02-01-02 is an emergency rule and thus contains an odd effective date.

13-02-01-02. FIXED CEILING TIME DEPOSITS OF LESS THAN ONE HUNDRED THOUSAND DOLLARS. Except as provided in sections 13-02-01-01, 13-02-01-04, 13-02-01-05, 13-02-01-06, and 13-02-01-07, no state banking association shall pay interest per annum on any time deposit at a rate in excess of the applicable rate under the following schedule:

MATURITY	MAXIMUM PERCENT
30 days or more but less than 90 days	5 $\frac{1}{4}$
90 days or more but less than 1 year	5 $\frac{1}{2}$
1 year or more but less than 30 months	6
30 months or more but less than 4 years	6 $\frac{1}{2}$
4 years or more but less than 6 years	7 $\frac{1}{4}$
6 years or more but less than 8 years	7 $\frac{1}{2}$
8 years or more	7 $\frac{3}{4}$

History: Amended effective July 1, 1979; amended effective August 21, 1979.

General Authority
NDCC 6-01-04

Law Implemented
NDCC 6-03-02,
6-03-63

TITLE 47

LABORATORIES COMMISSION

STAFF COMMENT: Chapter 47-04-03.1 contains all new material. These rules are not subject to NDCC Chapter 28-32; however, approval by the Attorney General was sought and obtained and the rules are voluntarily published in the Code.

ARTICLE 47-04

RULES INITIATED BY THE INSPECTION DIVISION

Chapter	
47-04-01	Trailer Court Rules
47-04-02	Food Vending Rules
47-04-03	Sanitary Requirements For Food and Drug Establishments <u>[Superseded by Chapter 47-04-03.1]</u>
<u>47-04-03.1</u>	<u>Sanitary Requirements for Food Establishments</u>
47-04-04	Smoke Detector Rules

CHAPTER 47-04-03

SANITARY REQUIREMENTS FOR
FOOD AND DRUG ESTABLISHMENTS

[Superseded by Chapter 47-04-03.1]

CHAPTER 47-04-03.1
SANITARY REQUIREMENTS FOR FOOD ESTABLISHMENTS

Section	
47-04-03.1-01	Definitions
47-04-03.1-02	General Care of Food Supplies
47-04-03.1-03	Special Requirements
47-04-03.1-04	General Food Protection
47-04-03.1-05	Emergency Occurrences
47-04-03.1-06	General Food Storage
47-04-03.1-07	Refrigerated Storage
47-04-03.1-08	Hot Storage
47-04-03.1-09	General Food Preparation
47-04-03.1-10	Raw Fruits and Raw Vegetables
47-04-03.1-11	Cooking Potentially Hazardous Foods
47-04-03.1-12	Dry Milk and Dry Milk Products
47-04-03.1-13	Liquid, Frozen, Dry Eggs and Egg Products
47-04-03.1-14	Reheating
47-04-03.1-15	Nondairy Products
47-04-03.1-16	Product Thermometers
47-04-03.1-17	Thawing Potentially Hazardous Foods
47-04-03.1-18	Food Display and Service of Potentially Hazardous Foods
47-04-03.1-19	Milk and Cream Dispensing
47-04-03.1-20	Nondairy Product Dispensing
47-04-03.1-21	Condiment Dispensing
47-04-03.1-22	Ice Dispensing
47-04-03.1-23	Dispensing Utensils
47-04-03.1-24	Re-serving
47-04-03.1-25	Display Equipment
47-04-03.1-26	Reuse of Tableware
47-04-03.1-27	General Food Transportation
47-04-03.1-28	General Employee Health
47-04-03.1-29	General Personal Cleanliness
47-04-03.1-30	General Clothing
47-04-03.1-31	General Employee Practices
47-04-03.1-32	General Equipment and Utensils Materials
47-04-03.1-33	Solder
47-04-03.1-34	Wood
47-04-03.1-35	Plastics
47-04-03.1-36	Mollusk and Crustacea Shells
47-04-03.1-37	Single-Service Articles
47-04-03.1-38	General Design and Fabrication
47-04-03.1-39	Accessibility
47-04-03.1-40	In-place Cleaning
47-04-03.1-41	Pressure Spray Cleaning
47-04-03.1-42	Thermometers
47-04-03.1-43	Nonfood Contact Surfaces
47-04-03.1-44	Ventilation Hoods

47-04-03.1-45 Existing Equipment
 47-04-03.1-46 General Equipment Installation and Location
 47-04-03.1-47 Table-Mounted Equipment
 47-05-03.1-48 Floor-Mounted Equipment
 47-04-03.1-49 Aisles and Working Spaces
 47-04-03.1-50 Cleaning Frequency of Equipment and
 Utensils Cleaning and Sanitizing
 47-04-03.1-51 Wiping Cloths
 47-04-03.1-52 Manual Cleaning and Sanitizing
 47-04-03.1-53 Mechanical Cleaning and Sanitizing
 47-04-03.1-54 Drying
 47-04-03.1-55 Handling of Equipment and Utensil Storage
 47-04-03.1-56 Storage
 47-04-03.1-57 Single-Service Articles
 47-04-03.1-58 Prohibited Storage Areas
 47-04-03.1-59 General Water Supplies
 47-04-03.1-60 Transportation
 47-04-03.1-61 Bottled Water
 47-04-03.1-62 Water Under Pressure
 47-04-03.1-63 Steam
 47-04-03.1-64 General Sewage
 47-04-03.1-65 General Plumbing
 47-04-03.1-66 Nonpotable Water System
 47-04-03.1-67 Backflow
 47-04-03.1-68 Grease Traps
 47-04-03.1-69 Garbage Grinders
 47-04-03.1-70 Drains
 47-04-03.1-71 Toilet Facility Installation
 47-04-03.1-72 Toilet Design
 47-04-03.1-73 Toilet Rooms
 47-04-03.1-74 Toilet Fixtures
 47-04-03.1-75 Lavatory Facility Installation
 47-04-03.1-76 Lavatory Faucets
 47-04-03.1-77 Lavatory Supplies
 47-04-03.1-78 Lavatory Maintenance
 47-04-03.1-79 Garbage and Refuse Containers
 47-04-03.1-80 Storage
 47-04-03.1-81 Disposal
 47-04-03.1-82 General Insect and Rodent Control
 47-04-03.1-83 Openings
 47-04-03.1-84 Construction and Maintenance of Floor Construction
 47-04-03.1-85 Floor Carpeting
 47-04-03.1-86 Prohibited Floor Covering
 47-04-03.1-87 Floor Drains
 47-04-03.1-88 Mats and Duckboards
 47-04-03.1-89 Floor Junctures
 47-04-03.1-90 Utility Line Installation
 47-04-03.1-91 Wall and Ceiling Maintenance
 47-04-03.1-92 Construction
 47-04-03.1-93 Exposed Construction
 47-04-03.1-94 Utility Line Installation
 47-04-03.1-95 Attachments
 47-04-03.1-96 Covering Material Installation

47-04-03.1-97	General Cleaning Physical Facilities
47-04-03.1-98	Utility Facility
47-04-03.1-99	General Lighting
47-04-03.1-100	Protective Shielding
47-04-03.1-101	General Ventilation
47-04-03.1-102	Special Ventilation
47-04-03.1-103	Dressing Rooms or Areas
47-04-03.1-104	Locker Area
47-04-03.1-105	Poisonous or Toxic Materials Permitted
47-04-03.1-106	Labeling of Materials
47-04-03.1-107	Storage of Materials
47-04-03.1-108	Use of Materials
47-04-03.1-109	Personal Medications
47-04-03.1-110	First-Aid Supplies
47-04-03.1-111	General Premises
47-04-03.1-112	Living Areas
47-04-03.1-113	Laundry Facilities
47-04-03.1-114	Linen and Clothes Storage
47-04-03.1-115	Cleaning Equipment Storage
47-04-03.1-116	Animals
47-04-03.1-117	General Mobile Food Service
47-04-03.1-118	General Mobile Food Service - Restricted Operations
47-04-03.1-119	Single-Service Articles
47-04-03.1-120	Water System
47-04-03.1-121	Waste Retention
47-04-03.1-122	Base of Commissary Operations
47-04-03.1-123	Serving Area and Operations
47-04-03.1-124	Servicing Operations
47-04-03.1-125	Temporary Food Service Establishment
47-04-03.1-126	Temporary Food Service Establishment - Restricted Operations
47-04-03.1-127	Ice
47-04-03.1-128	Equipment
47-04-03.1-129	Single-Service Articles
47-04-03.1-130	Water
47-04-03.1-131	Wet Storage
47-04-03.1-132	Waste
47-04-03.1-133	Handwashing
47-04-03.1-134	Floors
47-04-03.1-135	Walls and Ceiling of Food Preparation Areas
47-04-03.1-136	Inspection Report Form FD 2420
47-04-03.1-137	Submission of Plans
47-04-03.1-138	Preoperational Inspection

47-04-03.1-01. (1101) DEFINITIONS. For the purpose of this chapter:

1. "Commissary" means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

2. "Corrosion-resistant materials" means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, normal use of cleaning compounds and bactericidal solutions, and other conditions-of-use environment.
3. "Department" means the state laboratories department or its designated agent.
4. "Easily cleanable" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.
5. "Employee" means the permit holder, individuals having supervisory or management duties and any other person working in a food service establishment.
6. "Equipment" means stoves, ovens, ranges, hoods, slicers, mixers, meatblocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items other than utensils, used in the operation of a food service establishment.
7. "Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale, in whole or in part, for human consumption.
8. "Food-contact surface" means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.
9. "Food processing establishment" means a commercial establishment in which food is manufactured or packaged for human consumption. The term does not include a food service establishment, retail food store, or commissary operation.
10. "Food service establishment" means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen-type operations that prepare sandwiches intended for individual portion service. The term does not include private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles.
11. "Hermetically sealed container" means a container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its content after processing.

12. "Kitchenware" means all multiuse utensils other than tableware.
13. "Law" includes federal, state, and local statutes, ordinances and regulations.
14. "Mobile food unit" means a vehicle-mounted food service establishment designed to be readily movable.
15. "Packaged" means bottled, canned, cartoned, or securely wrapped.
16. "Person" includes any individual, partnership, corporation, association, or other legal entity.
17. "Person in charge" means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.
18. "Potentially dangerous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odor-free shell eggs or foods which have a pH level of 4.6 or below or a water activity (a_w) value of 0.85 or less.
19. "Pushcart" means a non-self-propelled vehicle limited to serving potentially hazardous foods or commissary-wrapped food maintained at proper temperatures, or limited to the preparation and service of frankfurters.
20. "Reconstituted" means dehydrated food products recombined with water or other liquids.
21. "Regulatory authority" means the state and local enforcement authority or authorities having jurisdiction over the food service establishment.
22. "Safe materials" means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials used are food additives or color additives as defined in section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act [Pub.L. 75-717; 52 Stat. 1040; 21 U.S.C. 301 et seq.], they are "safe" only if they are used in conformity with regulations established pursuant to section 409 or section 706 of the Act. Other materials are "safe" only if,

as used, they are not food additives or color additives as defined in section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act and are used in conformity with all applicable regulations of the food and drug administration.

23. "Sanitization" means effective bactericidal treatment by a process that provides enough accumulated heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.
24. "Sealed" means free of cracks or other openings that permit the entry or passage of moisture.
25. "Single-service articles" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks and similar articles intended for one-time, one-person use and then discarded.
26. "Tableware" means multiuse eating and drinking utensils.
27. "Temporary food service establishment" means a food service establishment that operates at a fixed location for a period of time of not more than fourteen consecutive days in conjunction with a single event or celebration.
28. "Utensil" means any implement used in the storage, preparation, transportation, or service of food.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-02. (2101) GENERAL CARE OF FOOD SUPPLIES. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-03. (2102) SPECIAL REQUIREMENTS.

1. Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the grade A quality standards established by law. Dry milk and dry milk products shall be made from pasteurized milk and milk products.
2. Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be packed in nonreturnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the interstate certification number issued according to law. Shell stock and shucked shellfish shall be kept in the container in which they were received until they are used. Each container of unshucked shell stock (oysters, clams, or mussels) shall be identified by an attached tag or label that states the name and address of the original shell stock processor, the kind and quantity of shell stock, and an interstate certification number issued by the state or foreign shellfish control agency.
3. Only clean whole eggs, with shell intact and without cracks or checks, or pasteurized liquids, frozen, or dry eggs or pasteurized dry egg products shall be used, except that hard-boiled, peeled eggs, commercially prepared and packaged, may be used.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-04. (2201) GENERAL FOOD PROTECTION. At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage, overhead leakage or overhead drippage from condensation. The temperature of potentially hazardous food shall be forty-five degrees Fahrenheit [7.2 degrees Celsius] or below or one hundred forty degrees Fahrenheit [60 degrees Celsius] or above at all times, except as otherwise provided in this chapter.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-05. (2202) EMERGENCY OCCURRENCES. In the event of a fire, flood, power outage, or similar event that might result in contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the department. Upon receiving the notice of this occurrence, the department shall take whatever action that it deems necessary to protect the public health.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-06. (2301) GENERAL FOOD STORAGE.

1. Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean covered container except during necessary periods of preparation or service. Container covers shall be impervious and nonabsorbent, except that linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meat shall be protected by being covered in storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat.
2. Containers of food shall be stored a minimum of six inches [15.24 centimeters] above the floor in a manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area, except that:
 - a. Metal pressurized beverage containers, and cased food packaged in cans, glass, or other waterproof containers need not be elevated when the food containers are not exposed to floor moisture.
 - b. Containers may be stored on dollies, racks, or pallets, if such equipment is easily movable.
3. Food and containers of food shall not be stored under exposed or unprotected sewer lines or water lines except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited.
4. Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from food requiring washing or cooking.

5. Packaged food shall not be stored in contact with water or drained ice. Wrapped sandwiches shall not be stored in direct contact with ice.
6. Unless its identity is unmistakable, bulk food such as cooking oil, syrup, salt, sugar, or flour, not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-07. (2302) REFRIGERATED STORAGE.

1. Enough conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to \pm three degrees Fahrenheit [\pm 16.11 degrees Celsius], located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording thermometers, accurate to \pm three degrees Fahrenheit [\pm 16.11 degrees Celsius], may be used in lieu of indicating thermometers.
2. Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of forty-five degrees Fahrenheit [7.2 degrees Celsius] or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled, utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container so that the cooling period shall not exceed four hours. Potentially hazardous food to be transported shall be prechilled and held at a temperature of forty-five degrees Fahrenheit [7.2 degrees Celsius] or below unless maintained in accordance with subsection 2 of section 47-04-03.1-08.
3. Frozen food shall be kept frozen and should be stored at a temperature of zero degrees Fahrenheit [17.78 degrees Celsius] or below.
4. Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser.

head. Ice used for cooling stored food and food containers shall not be used for human consumption.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-08. (2303) HOT STORAGE.

1. Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled recording or indicating thermometer, accurate to \pm three degrees Fahrenheit [\pm 16.11 degrees Celsius], located to measure the air temperature in the coolest part of the facility and located to be easily readable. Where it is impractical to install thermometers on equipment such as bainmaries, steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature.
2. The internal temperature of potentially hazardous food requiring hot storage shall be one hundred forty degrees Fahrenheit [60 degrees Celsius] or above except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of one hundred forty degrees Fahrenheit [60 degrees Celsius] or above unless maintained in accordance with subsection 2 of section 47-04-03.1-07.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-09. (2401) GENERAL FOOD PREPARATION. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed, and sanitized to prevent cross-contamination.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-10. (2402) RAW FRUITS AND RAW VEGETABLES. Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-11. (2403) COOKING POTENTIALLY HAZARDOUS FOODS. Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least one hundred forty degrees Fahrenheit [60 degrees Celsius], except that:

1. Poultry, poultry stuffing, stuffed meats, and stuffing containing meat shall be cooked to heat all parts of the food to at least one hundred sixty-five degrees Fahrenheit [73.88 degrees Celsius] with no interruption of the cooking process.
2. Pork and any food containing pork shall be cooked to heat all parts of the food to at least one hundred fifty degrees Fahrenheit [65.55 degrees Celsius].
3. Rare roast beef shall be cooked to an internal temperature of at least one hundred thirty degrees Fahrenheit [54.4 degrees Celsius], and rare beef steak shall be cooked to a temperature of one hundred thirty degrees Fahrenheit [54.4 degrees Celsius] unless otherwise ordered by the immediate consumer.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-12. (2404) DRY MILK AND DRY MILK PRODUCTS. Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products, or for cooking and baking purposes.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-13. (2405) LIQUID, FROZEN, DRY EGGS AND EGG PRODUCTS. Liquid, frozen, dry eggs and egg products shall be used only for cooking and baking purposes.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-14. (2406) REHEATING. Potentially hazardous foods that have been cooked and then refrigerated, shall be reheated rapidly to one hundred sixty-five degrees Fahrenheit [73.88 degrees Celsius] or higher throughout before being served or before being placed in a hot food storage facility. The use of steam tables, bainmaries, warmers, and similar hot food holding facilities for the rapid reheating of potentially hazardous foods is prohibited.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-15. (2407) NONDAIRY PRODUCTS. Nondairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they are stored in sanitized, covered containers not exceeding one gallon [3.785 liters] in capacity and cooled to forty-five degrees Fahrenheit [7.2 degrees Celsius] or below within four hours after preparation.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-16. (2408) PRODUCT THERMOMETERS. Metal stem-type numerically scaled indicating thermometers, accurate to \pm two degrees Fahrenheit [\pm 16.67 degrees Celsius], shall be provided and used to assure the attainment and maintenance of proper internal cooking,

holding, or refrigeration temperatures of all potentially hazardous foods.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-17. (2409) THAWING POTENTIALLY HAZARDOUS FOODS. Potentially hazardous foods shall be thawed in any one of the following ways:

1. In refrigerated units at a temperature not to exceed forty-five degrees Fahrenheit [7.2 degrees Celsius].
2. Under potable running water of a temperature of seventy degrees Fahrenheit [21.1 degrees Celsius] or below, with sufficient water velocity to agitate and float off loose food particles into the overflow.
3. In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven.
4. As part of the conventional cooking process.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-18. (2501) FOOD DISPLAY AND SERVICE OF POTENTIALLY HAZARDOUS FOODS. Potentially hazardous foods shall be kept at an interval temperature of forty-five degrees Fahrenheit [7.2 degrees Celsius] or below or an interval temperature of one hundred forty degrees Fahrenheit [60 degrees Celsius] or above during display and service, except that rare roast beef shall be held for service at a temperature of at least one hundred thirty degrees Fahrenheit [54.4 degrees Celsius].

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-19. (2502) MILK AND CREAM DISPENSING.

1. Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding one pint [0.473 liters] in capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser. Where a dispenser for milk and milk products is not available and portions of less than one-half pint [0.236 liters] are required for mixed drinks, cereal, or dessert service, milk and milk products may be poured from a commercially filled container of not more than one-half gallon [1.892 liters] capacity.
2. Cream of half and half shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-20. (2503) NONDAIRY PRODUCT DISPENSING. Nondairy creaming or whitening agents shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-21. (2504) CONDIMENT DISPENSING.

1. Condiments, seasonings, and dressings for self-service use shall be provided in individual packages, from dispensers or from containers protected in accordance with section 47-04-03.1-25.
2. Condiments provided for table or counter service shall be individually portioned, except that catsup and other sauces may be served in the original container or pour-type

dispenser. Sugar for consumer use shall be provided in individual packages or in pour-type dispensers.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-22. (2505) ICE DISPENSING. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice-dispensing utensils or through automatic self-service, ice-dispensing equipment. Ice-dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-23. (2506) DISPENSING UTENSILS. To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils shall be stored in any one of the following ways:

1. Stored in the food with the dispensing utensil handle extended out of the food.
2. Stored clean and dry.
3. Stored in running water.
4. Stored either in a running water dipper well, or clean and dry in the case of dispensing utensils and malt collars used in preparing frozen desserts.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-24. (2507) RE-SERVING. Once served to a consumer, portions of leftover food shall not be served again, except that packaged food, other than potentially hazardous food, that is still packaged and is still in sound condition, may be re-served.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-25. (2508) DISPLAY EQUIPMENT. Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protector devices, display cases, or other effective means. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-26. (2509) REUSE OF TABLEWARE. Reuse of soiled tableware by self-service consumers returning to the service area for additional food is prohibited. Beverage cups and glasses are exempt.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-27. (2601) GENERAL FOOD TRANSPORTATION. During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements relating to food protection and food storage.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-28. (3101) GENERAL EMPLOYEE HEALTH. No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that can cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food service establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-29. (3201) GENERAL PERSONAL CLEANLINESS. Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Employees shall keep their fingernails clean and trimmed.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-30. (3301) GENERAL CLOTHING.

1. The outer clothing of all employees shall be clean.
2. Employees shall use effective hair restraints to prevent the contamination of food or food-contact surfaces.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-31. (3401) GENERAL EMPLOYEE PRACTICES.

1. Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils, or other items needing protection.
2. Employees shall not use tobacco in any form while engaged in food preparation or service, or while in areas used for equipment or utensil washing or food preparation. Employees shall use tobacco only in designated areas. An employee tobacco-use area shall not be designated for that purpose if the use of tobacco there may result in contamination of food, equipment, utensils, or other items needing protection.
3. Employees shall handle soiled tableware in a way that minimizes contamination of their hands.
4. Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food service establishment.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-32. (4101) GENERAL EQUIPMENT AND UTENSILS MATERIALS. Multiuse equipment and utensils shall be constructed and repaired with safe materials, including finishing materials, shall be corrosion resistant and nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-33. (4102) SOLDER. If solder is used, it shall be composed of safe materials and be corrosion resistant.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-34. (4103) WOOD. Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in section 47-04-03.1-32 may be used for cutting blocks, cutting boards, salad bowls, and baker's tables. Wood may be used for single-service articles, such as chopsticks, stirrers, or ice cream spoons. The use of wood as a food-contact surface under other circumstances is prohibited.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-35. (4104) PLASTICS. Safe plastic, safe rubber, or safe rubberlike materials that are resistant, under normal conditions of use, to scratching, scoring, decomposition, crazing, chipping and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in section 47-04-03.1-32 are permitted for repeated use.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-36. (4105) MOLLUSK AND CRUSTACEA SHELLS. Mollusk and crustacea shells may be used only once as a serving container. Reuse of such shells for food service is prohibited.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-37. (4106) SINGLE-SERVICE ARTICLES. Reuse of single-service articles is prohibited.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-38. (4201) GENERAL DESIGN AND FABRICATION. All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing, and shall meet the following standards as applicable:

1. Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills, griddle tops, and skillets. Threads shall be designed to facilitate cleaning, ordinary "V" type threads shall not be used in food-contact surfaces, except that in equipment such as ice makers or hot oil cooking equipment and hot oil filtering systems where such threads shall be minimized.
2. Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces.
3. Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice provided such tubing is fabricated from safe materials, is grommited at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.
4. Sinks and drainboards shall be self-draining.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-39. (4202) ACCESSIBILITY. Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection in any of the following ways:

1. Without being disassembled.
2. By disassembling without the use of tools.
3. By easy disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open-end wrench kept available near the equipment.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-40. (4203) IN-PLACE CLEANING. Equipment intended for in-place cleaning shall be so designed and fabricated that all of the following requirements are met:

1. Cleaning and sanitizing solutions are circulated throughout a fixed system using an effective cleaning and sanitizing regimen.
2. Cleaning and sanitizing solutions contact all interior food-contact surfaces.
3. The system is self-draining or capable of being completely evacuated.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-41. (4204) PRESSURE SPRAY CLEANING. Fixed equipment designed and constructed to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches, and connections.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-42. (4205) THERMOMETERS. Indicating thermometers required for immersion into food or cooking media shall be of metal stem type construction, numerically scaled and accurate to \pm two degrees Fahrenheit [\pm 16.67 degrees Celsius].

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-43. (4206) NON-FOOD-CONTACT SURFACES. Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and constructed to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-44. (4207) VENTILATION HOODS. Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings and from dripping into food or onto food-contact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-45. (4208) EXISTING EQUIPMENT. Equipment installed in a food service establishment prior to October 1, 1979, that does not fully meet all of the design and construction requirements of this chapter, shall be deemed acceptable in that establishment if it is in good repair, capable of being maintained in a sanitary condition, and if the food-contact surfaces are nontoxic. Replacement equipment and new

equipment acquired after October 1, 1979, shall meet the requirements of this chapter.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-46. (4301) GENERAL EQUIPMENT INSTALLATION AND LOCATION. Equipment, including icemakers and ice storage equipment, shall not be located under exposed or unprotected sewer lines or water lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required by law.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-47. (4302) TABLE-MOUNTED EQUIPMENT.

1. Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a four-inch [10.16-centimeter] clearance between the table or counter and equipment, and shall be installed to facilitate the cleaning of the equipment and adjacent areas.
2. Equipment is portable within the meaning of subsection 1 if both of the following requirements are met:
 - a. Small and light enough to be moved easily by one person.
 - b. It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-48. (4303) FLOOR-MOUNTED EQUIPMENT.

1. Floor-mounted equipment, unless easily movable, shall be:
 - a. Sealed to the floor;
 - b. Installed on a raised platform of concrete or other smooth masonry in a way meets all the requirements for sealing or floor clearance; or
 - c. Elevated on legs to provide at least a six-inch [15.24-centimeter] clearance between the floor and equipment. However, vertically mounted floor mixers may be elevated to provide at least a four-inch [10.16-centimeter] clearance between the floor and equipment if no part of the floor under the mixer is more than six inches [15.24 centimeters] from cleaning access.
2. Equipment is easily movable if:
 - a. It is mounted on wheels or casters; and
 - b. It has no utility connection or has a utility connection that connects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.
3. Unless sufficient space is provided for easy cleaning between, behind, and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be not more than one thirty-second of an inch [.794 millimeters]; or if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls or ceilings.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-49. (4304) AISLES AND WORKING SPACES. Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width or space to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable

storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-50. (5101) CLEANING FREQUENCY OF EQUIPMENT AND UTENSILS CLEANING AND SANITIZING.

1. Tableware shall be washed, rinsed, and sanitized after each use.
2. To prevent cross-contamination, kitchenware and food-contact surfaces of equipment shall be washed, rinsed, and sanitized after each use and following any interruption of operations during which time contamination may have occurred.
3. Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production line basis, utensils and the food-contact surfaces of equipment shall be washed, rinsed, and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation.
4. The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day. However, this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food-contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.
5. Non-food-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles and other debris.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-51. (5102) WIPING CLOTHS.

1. Cloths used for wiping food spills on tableware, such as plates or bowls, being served to the consumer, shall be clean, dry, and used for no other purpose.
2. Moist cloths or sponges used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted in section 47-04-03.1-52 and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.
3. Moist cloths or sponges used for cleaning non-food-contact surfaces of equipment, such as counters, dining table tops and shelves, shall be clean and rinsed as specified in subsection 2 and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-52. (5103) MANUAL CLEANING AND SANITIZING.

1. For manual washing, rinsing, and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.
2. Drainboards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing, and shall be located so as not to interfere with the proper use of the dishwashing facilities.
3. Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.
4. Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing, and sanitizing shall be conducted in the following sequence:

- a. Sinks shall be cleaned prior to use.
 - b. Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean.
 - c. Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment.
 - d. Equipment and utensils shall be sanitized in the third compartment according to one of the methods included in subdivisions a through d of subsection 5.
5. The food-contact surfaces of all equipment and utensils shall be sanitized by any of the following methods:
- a. Immersion for at least one-half minute in clean, hot water at a temperature of at least one hundred seventy degrees Fahrenheit [76.67 degrees Celsius].
 - b. Immersion for at least one minute in a clean solution containing at least fifty parts per million of available chlorine as a hypochlorite at a temperature of at least seventy-five degrees Fahrenheit [23.89 degrees Celsius].
 - c. Immersion for at least one minute in a clean solution containing at least twelve point five parts per million of available iodine and having a pH not higher than five point zero at a temperature of at least seventy-five degrees Fahrenheit [23.89 degrees Celsius].
 - d. Immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 C.F.R. 178.1010 that will provide the equivalent bactericidal effect of a solution at least fifty parts per million of available chlorine as a hypochlorite at a temperature of at least seventy-five degrees Fahrenheit [23.89 degrees Celsius] for one minute.
 - e. Treatment with steam which is free from materials or additives other than those specified in 21 C.F.R. 173.310, in the case of equipment too large to sanitize by immersion, but in which steam can be confined.
 - f. Rinsing, spraying, or swabbing with a chemical sanitizing solution at least twice the strength required for that particular sanitizing solution under subdivision d in the case of equipment too large to sanitize by immersion.
6. When hot water is used for sanitizing, all of the following facilities shall be provided and used:

- a. An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least one hundred seventy degrees Fahrenheit [76.67 degrees Celsius].
 - b. A numerically scaled indicating thermometer, accurate to \pm three degrees Fahrenheit [\pm 16.11 degrees Celsius], convenient to the sink for frequent checks of water temperature.
 - c. Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.
7. When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under 21 C.F.R. 178.1010 and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-53. (5104) MECHANICAL CLEANING AND SANITIZING.

1. Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device, if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair. These machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in these machines shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.
2. The pressure of final rinse water supplies to spray-type dishwashing machines shall not be less than fifteen nor more than twenty-five pounds per square inch [11.34 kilograms per 6.45 square centimeters] measured in the water line immediately adjacent to the final rinse control valve. A one-fourth inch [6.35 millimeters] IPS valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

3. Machine or water line mounted numerically scaled indicating thermometers, accurate to \pm three degrees Fahrenheit [\pm 16.11 degrees Celsius], shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.
4. Rinse water tanks shall be protected by baffles, curtains, or other effective means, to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles, in accordance with manufacturers' specifications attached to the machines.
5. Drainboards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and cleaned utensils following sanitization, and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of clean or soiled utensils following sanitization.
6. Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine, unless a prewash cycle is a part of the dishwashing machine operation. Equipment and utensils shall be placed in racks, trays, or baskets, or on conveyors, in a way that food-contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.
7. Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used if the following requirements are met:
 - a. The temperature of the wash water shall not be less than one hundred twenty degrees Fahrenheit [48.89 degrees Celsius].
 - b. The wash water shall be kept clean.
 - c. Chemicals added for sanitization purposes shall be automatically dispensed.
 - d. Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration.
 - e. The chemical sanitizing rinse water temperature shall be not less than seventy-five degrees Fahrenheit [23.89 degrees Celsius], nor less than the temperature specified by the machine's manufacturer.

- f. Chemical sanitizers used shall meet the requirements of 21 C.F.R. 178.1010.
 - g. A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used.
8. Machines using hot water for sanitization may be used if the wash water and pumped rinse water is kept clean and the water is maintained at not less than the temperature stated in this section.
- a. Single-tank, stationary-rack, dual temperature machine:
 - Wash temperature One hundred fifty degrees Fahrenheit [65.55 degrees Celsius]
 - Final rinse temperature One hundred eighty degrees Fahrenheit [82.22 degrees Celsius]
 - b. Single-tank, stationary-rack, single-temperature machine:
 - Wash temperature One hundred sixty-five degrees Fahrenheit [73.88 degrees Celsius]
 - Final rinse temperature One hundred sixty-five degrees Fahrenheit [73.88 degrees Celsius]
 - c. Single-tank, conveyor machine:
 - Wash temperature One hundred sixty degrees Fahrenheit [71.11 degrees Celsius]
 - Final rinse temperature One hundred eighty degrees Fahrenheit [82.22 degrees Celsius]
 - d. Multitank, conveyor machine:
 - Wash temperature One hundred fifty degrees Fahrenheit [65.55 degrees Celsius]
 - Pumped rinse temperature One hundred sixty degrees Fahrenheit [71.11 degrees Celsius]
 - Final rinse temperature One hundred eighty degrees Fahrenheit [82.22 degrees Celsius]
 - e. Single-tank, pot, pan, and utensil washer (either stationary or moving rack):
 - Wash temperature One hundred forty degrees Fahrenheit [60 degrees Celsius]

Final rinse temperature One hundred eighty degrees Fahrenheit [82.22 degrees Celsius]

9. All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-54. (5105) DRYING. After sanitization, all equipment and utensils shall be air dried.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-55. (5201) HANDLING OF EQUIPMENT AND UTENSIL STORAGE. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-56. (5202) STORAGE.

1. Cleaned and sanitized utensils and equipment shall be stored at least six inches [15.24 centimeters] above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

2. Utensils shall be air dried before being stored or shall be stored in a self-draining position.
3. Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, whenever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is prewrapped, holders for knives, forks, and spoons at self-service locations shall protect these articles from contamination and present the handle of the utensil to the consumer.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-57. (5203) SINGLE-SERVICE ARTICLES.

1. Single-service articles shall be stored at least six inches [15.24 centimeters] above the floor in closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.
2. Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.
3. Single-service knives, forks, and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed one's hands immediately prior to sorting or wrapping the utensils. Unless single-service knives, forks, and spoons are prewrapped or prepackaged, holders shall be provided to protect these items from contamination and present the handle of the utensil to the consumer.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-58. (5204) PROHIBITED STORAGE AREAS. The storage of food, equipment, utensils, or single-service articles in toilet rooms or vestibules is prohibited.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-59. (6101) GENERAL WATER SUPPLIES. Enough potable water for the needs of the food service establishment shall be provided from a source constructed and operated according to law.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-60. (6102) TRANSPORTATION. All potable water not provided directly by pipe to the food service establishment from the source shall be transported in a bulk water transport system and shall be delivered to a closed-water system. Both of these systems shall be constructed and operated according to law.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-61. (6103) BOTTLED WATER. Bottled and packaged potable water shall be obtained from a source that complies with all laws and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-62. (6104) WATER UNDER PRESSURE. Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-63. (6105) STEAM. Steam used in contact with food of food-contact surfaces shall be free from any materials or additives other than those specified in 21 C.F.R. 173.310.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-64. (6201) GENERAL SEWAGE. All sewage, including liquid waste, shall be disposed of by a public sewerage system or by a sewage disposal system constructed and operated according to law. Non-water-carried sewage disposal facilities are prohibited, except as permitted by sections 47-04-03.1-125 and 47-04-03.1-132 (pertaining to temporary food service establishments), or as permitted by this department in remote areas or because of special situations.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-65. (6301) GENERAL PLUMBING. Plumbing shall be sized, installed, and maintained according to law. There shall be no cross-connection between the potable water supply and any nonpotable or questionable water supply or any source of pollution through which the potable water supply might become contaminated.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-66. (6302) NONPOTABLE WATER SYSTEM. Use of a nonpotable water system is permitted only for purposes such as air-conditioning and fire protection, and only if the system is installed according to law and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-67. (6303) BACKFLOW. The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and back siphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture's flood level rim. A hose shall not be attached to a faucet unless a backflow prevention device is installed.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-68. (6304) GREASE TRAPS. If used, grease traps shall be located to be easily cleaned.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-69. (6305) GARBAGE GRINDERS. If used, garbage grinders shall be installed and maintained according to law.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-70. (6306) DRAINS. Except for properly trapped open sinks, there shall be no direct connection between the sewerage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. When a dishwashing machine is located within five feet [15.24 decimeters] of a trapped floor drain, the dishwasher waste outlet may be connected directly on the inlet side of a properly vented floor drain trap.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-71. (6401) TOILET FACILITY INSTALLATION. Toilet facilities shall be installed according to law, shall be the number required by law, shall be conveniently located, and shall be accessible to employees at all times.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-72. (6402) TOILET DESIGN. Toilets and urinals shall be designed to be easily cleaned.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-73. (6403) TOILET ROOMS. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing, solid doors, which shall be closed except during cleaning or maintenance unless otherwise provided by law.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-74. (6404) TOILET FIXTURES. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-75. (6501) LAVATORY FACILITY INSTALLATION.

1. Lavatories shall be at least the number required by law, shall be installed according to law, and shall be located to permit convenient use by all employees in food preparation and utensil-washing areas.
2. Lavatories shall be accessible to employees at all times.
3. Lavatories shall also be located in or immediately adjacent to toilet rooms. Sinks used for food preparation or for washing equipment or utensils shall not be used for handwashing.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-76. (6502) LAVATORY FAUCETS. Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet shall be designed to provide a flow of water for at least fifteen seconds without the need to reactivate the faucet. Use of steam-mixing valves is prohibited.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-77. (6503) LAVATORY SUPPLIES. A supply of hand-cleansing soap or detergent shall be available at each lavatory. A

supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each lavatory. The use of common towels is prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-78. (6504) LAVATORY MAINTENANCE. Lavatories, soap dispensers, hand-drying devices, and all related fixtures shall be kept clean and in good repair.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-79. (6601) GARBAGE AND REFUSE CONTAINERS.

1. Garbage and refuse shall be kept in durable, easily cleanable, insect and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line these containers or for storage inside the food service establishment.
2. Containers used in food preparation and utensil washing areas shall be kept covered after they are filled.
3. Containers stored outside the establishment, and dumpsters, compactors, and compactor systems shall be easily cleanable, shall be provided with tight-fitting lids, doors, or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.
4. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.
5. Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas. Suitable facilities, including hot water and detergent or steam, shall be provided and used for washing

containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-80. (6602) STORAGE.

1. Garbage and refuse on the premises shall be stored in a manner which makes them inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited. Cardboard or other packaging materials not containing garbage or food wastes need not be stored in covered containers.
2. Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof, and shall be large enough to store the garbage and refuse containers that accumulate.
3. Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters, and compactor systems located outside shall be stored on or above a smooth surface or nonabsorbent material, such as concrete or machine-laid asphalt, that is kept clean and maintained in good repair.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-81. (6603) DISPOSAL.

1. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

2. Where garbage or refuse is burned on the premises, it shall be done by controlled incineration which prevents the escape of particulate matter in accordance with law. Areas around incineration facilities shall be clean and orderly.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-82. (6701) GENERAL INSECT AND RODENT CONTROL. Effective measures intended to minimize the presence of rodents, flies, cockroaches, and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-83. (6702) OPENINGS. Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall not be less than sixteen mesh to the inch [2.54 centimeters].

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-84. (7101) CONSTRUCTION AND MAINTENANCE OF FLOOR CONSTRUCTION. Floors and floor coverings of all food preparation, food storage, and utensil-washing areas, walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms, and vestibules shall be constructed of smooth durable material, such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood impregnated with plastic, and shall be maintained in good

repair. Nothing in this section shall prohibit the use of antislip floor covering in areas where necessary for safety reasons.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-85. (7102) FLOOR CARPETING. Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, equipment-washing, and utensil-washing areas where it would be exposed to large amounts of grease and water, in food storage areas, and toilet room areas where urinals or toilet fixtures are located.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-86. (7103) PROHIBITED FLOOR COVERING. The use of sawdust, wood shavings, peanut hulls, or similar material as a floor covering is prohibited.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-87. (7104) FLOOR DRAINS. Properly installed, trapped floor drains shall be provided in floors that are water-flushed for cleaning, or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Such floors shall be constructed only of sealed concrete, terrazzo, ceramic tile, or similar materials, and shall be graded to drain.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-88. (7105) MATS AND DUCKBOARDS. Mats and duckboards shall be of nonabsorbent, grease resistant materials and of such size, design, and construction as to facilitate easy cleaning. Duckboards shall not be used as storage racks.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-89. (7106) FLOOR JUNCTURES. In all new or extensively remodeled establishments utilizing concrete, terrazzo, ceramic tile, or similar flooring materials, and where water-flush cleaning methods are used, the junctures between walls and floors shall not present an open seam of more than one thirty-second of an inch [.794 millimeters].

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-90. (7107) UTILITY LINE INSTALLATION. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor is prohibited.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-91. (7201) WALL AND CEILING MAINTENANCE. Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-92. (7202) CONSTRUCTION. The walls, including nonsupporting partitions, wall coverings, and the ceilings of walk-in refrigerating units, food preparation areas, equipment and utensil-washing areas, toilet rooms and vestibules shall be light colored, smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide an easily cleanable surface.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-93. (7203) EXPOSED CONSTRUCTION. Studs, joists, and rafters shall not be exposed in walk-in refrigerating units, food preparation areas, equipment and utensil-washing areas, toilet rooms, and vestibules. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-94. (7204) UTILITY LINE INSTALLATION. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in walk-in refrigerating units, food preparation areas, equipment and utensil-washing areas, toilet rooms, and vestibules.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-95. (7205) ATTACHMENTS. Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment

attached to walls and ceilings shall be easily cleanable and shall be maintained in good repair.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-96. (7206) COVERING MATERIAL INSTALLATION. Wall and ceiling covering materials shall be attached and sealed as to be easily cleaned.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-97. (7301) GENERAL CLEANING PHYSICAL FACILITIES. Cleaning of floor and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after closing or between meals. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust-arresting sweeping compounds with brooms.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-98. (7302) UTILITY FACILITY. In new or extensively remodeled establishments at least one utility sink or curbed cleaning facility with a floor drain shall be provided and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mopwater or similar liquid wastes. The use of lavatories, utensil or equipment-washing, or food preparation sinks for this purpose is prohibited in new or extensively remodeled establishments.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-99. (7401) GENERAL LIGHTING.

1. Permanently fixed artificial light sources shall be installed to provide at least twenty foot-candles of light on all food preparation surfaces and at equipment or utensil-washing work levels.
2. Permanently fixed artificial light sources shall be installed to provide, at a distance of thirty inches [76.2 centimeters] from the floor.
 - a. At least twenty foot-candles of light in utensil and equipment storage areas and in lavatory and toilet areas; and
 - b. At least ten foot-candles of light in walk-in refrigerating units, dry food storage areas, and in all other areas, including dining areas during cleaning operations.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-100. (7402) PROTECTIVE SHIELDING.

1. Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, by, or within food storage, preparation, service, and display facilities.
2. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-101. (7501) GENERAL VENTILATION. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes. Ventilation systems shall be installed and operated according to law and, when

vented to the outside, shall not create an unsightly, harmful or unlawful discharge.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-102. (7502) SPECIAL VENTILATION.

1. Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.
2. In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors, or fumes originate shall be mechanically vented to the outside.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-103. (7601) DRESSING ROOMS OR AREAS. If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, storage or service, or for utensil washing or storage.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-104. (7602) LOCKER AREA. Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may be located only in the designated dressing rooms, in food storage rooms, or areas containing only completely packaged food or packaged single-service articles.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-105. (7701) POISONOUS OR TOXIC MATERIALS PERMITTED. There shall be present in food service establishments only those poisonous or toxic materials necessary for maintaining the establishment, cleaning and sanitizing equipment and utensils, and controlling insects and rodents.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-106. (7702) LABELING OF MATERIALS. Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to law for easy identification of contents.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-107. (7703) STORAGE OF MATERIALS.

1. Poisonous or toxic materials consist of the following three categories:
 - a. Insecticides and rodenticides.
 - b. Detergents, sanitizers, and related cleaning or drying agents.
 - c. Caustics, acids, polishes, and other chemicals.
2. Each of the three categories set forth in subsection 1 shall be stored and physically located separate from each other. All poisonous or toxic materials shall be stored in cabinets or in a similar physically separate place used for no other purpose. To preclude contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils, or single-service articles, except that this

requirement does not prohibit the convenient location of detergents or sanitizers at utensil or dishwashing stations.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-108. (7704) USE OF MATERIALS.

1. Bactericides, cleaning compounds, or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces or that constitutes a hazard to employees or other persons.
2. Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, in a way that constitutes a hazard to employees or other persons, or in a way other than in full compliance with the manufacturer's labeling.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-109. (7705) PERSONAL MEDICATIONS. Personal medications shall not be stored in food storage, preparation, or service areas.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-110. (7706) FIRST-AID SUPPLIES. First-aid supplies shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-111. (7801) GENERAL PREMISES.

1. Food service establishments and all property used in connection with their operations shall be kept free of litter.
2. The walking and driving surfaces of all exterior areas of food service establishments shall be surfaced with concrete or asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to prevent pooling and shall be kept free of litter.
3. Only articles necessary for the operation and maintenance of the food service establishment shall be stored on the premises.
4. The traffic of unnecessary persons through the food preparation and utensil-washing areas is prohibited.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-112. (7802) LIVING AREAS. No operations of a food service establishment shall be conducted in any room used as living or sleeping quarters. Food service operations shall be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-113. (7803) LAUNDRY FACILITIES.

1. Laundry facilities in a food service establishment shall be used only for the washing and drying of linens, cloths, uniforms and aprons necessary to the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.
2. Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms

containing only packaged foods or packaged single-service articles.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-114. (7804) LINEN AND CLOTHES STORAGE.

1. Clean clothes and linens shall be stored in a clean place and protected from contamination until used.
2. Soiled clothes and linens shall be stored in nonabsorbent containers or washable laundry bags until removed for laundering.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-115. (7805) CLEANING EQUIPMENT STORAGE. Maintenance and cleaning tools such as brooms, mops, vacuum cleaners, and similar equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-116. (7806) ANIMALS. Live animals, including birds and turtles, shall be excluded from the food service premises and from adjacent areas under the control of the permit holder. This exclusion does not apply to edible fish, crustacea, shellfish, or fish in

aquariums. Patrol dogs accompanying security or police officers, or guide dogs accompanying blind persons, shall be permitted in dining areas.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-117. (8101) GENERAL MOBILE FOOD SERVICE. Mobile food units or pushcarts shall comply with the requirements of this chapter, except as otherwise provided in this section and in section 47-04-03.1-118. The department may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile operation, may prohibit the sale of some or all potentially hazardous food, and when no health hazard will result, may waive or modify requirements of this chapter relating to physical facilities, except those requirements of sections 47-04-03.1-20, 47-04-03.1-121, 47-04-03.1-122, 47-04-03.1-123, and 47-04-03.1-124, which may not be waived.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-118. (8102) GENERAL MOBILE FOOD SERVICE - RESTRICTED OPERATIONS. Mobile food units or pushcarts serving only food prepared, packaged in individual servings, transported and stored under conditions meeting the requirements of this chapter, or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment, need not comply with requirements of this chapter pertaining to the necessity of water and sewage systems or those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at the commissary. However, frankfurters may be prepared and served from these units or pushcarts.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-119. (8103) SINGLE-SERVICE ARTICLES. Mobile food units or pushcarts shall provide only single-service articles for use by the consumer.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-120. (8104) WATER SYSTEM. A mobile food unit requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and handwashing, in accordance with the requirements of this chapter. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of this chapter.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-121. (8105) WASTE RETENTION. If liquid waste results from operation of a mobile food unit, the waste shall be stored in a permanently installed retention tank that has a capacity of at least fifteen percent or larger than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion. All connections of the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-122. (8201) BASE OF COMMISSARY OPERATIONS.

1. Mobile food units or pushcarts shall operate out of a commissary or other fixed food service establishment and shall report at least daily to all such locations for all supplies and cleaning and servicing operations.
2. The commissary or other fixed food service establishments used as a base of operation for mobile food units or pushcarts shall be constructed and operated in compliance with the requirements of this section.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-123. (8301) SERVING AREA AND OPERATIONS.

1. A mobile food unit servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area there shall be a location provided for the flushing and drainage of liquid wastes which is separate from the locations provided for water servicing and for the loading and unloading of food and related supplies. This servicing area will not be required where only packaged food is placed on the mobile food unit or pushcart, or where mobile food units do not contain waste retention tanks.
2. The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt, and shall be maintained in good repair, kept clean, and graded to drain.
3. The construction of the walls and ceilings of the servicing area is exempted from the provision of sections 47-04-03.1-91 through 47-04-03.1-96.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-124. (8302) SERVICING OPERATIONS.

1. Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.
2. The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged into a sanitary sewerage disposal system in accordance with section 47-04-03.1-64.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-125. (9101) TEMPORARY FOOD SERVICE ESTABLISHMENT. A temporary food service establishment shall comply with the requirements of this chapter, except as otherwise provided in this section. The department may impose additional requirements to protect against health hazards, related to the conduct of the temporary food service establishments, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of this chapter relating to temporary food service establishments.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-126. (9102) TEMPORARY FOOD SERVICE ESTABLISHMENT - RESTRICTED OPERATIONS.

1. This section is applicable whenever a temporary food service establishment is permitted, under the provisions of section 47-04-03.1-125 to operate without complying with all the requirements.
2. Only those potentially hazardous foods requiring limited preparation, such as hamburgers and frankfurters that only require seasoning and cooking, shall be prepared or served. The preparation or service of other potentially hazardous foods, including pastries filled with cream or synthetic cream, custards, and similar products, and salads or

sandwiches containing meat, poultry, eggs, or fish, is prohibited. This prohibition does not apply to any potentially hazardous food that has been prepared and packaged under conditions meeting the requirements of this chapter, is packaged in individual servings, is stored at a temperature of forty-five degrees Fahrenheit [7.2 degrees Celsius] or below or at a temperature of one hundred forty degrees Fahrenheit [60 degrees Celsius] or above in facilities meeting the requirements of this chapter, and is served directly in the unopened container in which it was packaged.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-127. (9103) ICE. Ice that is consumed or that contacts food shall be made under conditions meeting the requirements of this chapter. The ice shall be obtained only in chipped, crushed, or cubed form and packaged in single-use safe plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until it is dispensed in a way that protects it from contamination.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-128. (9104) EQUIPMENT.

1. Equipment shall be located and installed in a way that prevents food contamination and that also facilitates cleaning the establishment.
2. Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Effective shields for such equipment shall be provided, as necessary, to prevent contamination.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-129. (9105) SINGLE-SERVICE ARTICLES. All temporary food service establishments without effective facilitates for cleaning and sanitizing tableware shall provide only single-service articles for use by the consumer.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-130. (9106) WATER. Enough potable water shall be available in the establishment for food preparation, for cleaning and sanitizing utensils and equipment, and for handwashing. A heating facility capable of producing enough hot water for these purposes shall be provided on the premises.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-131. (9107) WET STORAGE. Storage of packaged food in contact with water or undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-132. (9108) WASTE. All sewage, including liquid waste, shall be disposed of according to law.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-133. (9109) HANDWASHING. A convenient handwashing facility shall be available for employee handwashing. At a minimum,

this facility shall consist of warm running water, soap, and individual paper towels.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-134. (9110) FLOORS. Floors shall be constructed of concrete, asphalt, tight wood, or other similar cleanable material kept in good repair. However, dirt or gravel, when graded to drain, may be used as subflooring when covered with clean, removable platforms or duckboards, or covered with wood chips, shavings, or other suitable materials effectively treated to control dust.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-135. (9111) WALLS AND CEILINGS OF FOOD PREPARATION AREAS.

1. Ceilings shall be made of wood, canvas, or other material that protects the interior of the establishment from the weather. Walls and ceilings of food preparation areas shall be constructed in a way that prevents the entrance of insects. Doors to food preparation areas shall be solid or screened and shall be self-closing. Screening material used for walls, doors, or windows shall be at least sixteen mesh to the inch [2.54 centimeters].
2. Counter-service openings shall be no larger than necessary for the particular operation conducted. These openings shall be provided with tight-fitting solid or screened doors or windows or shall be provided with fans installed and operated to restrict the entrance of flying insects. Counter-service openings shall be kept closed, except when in actual use.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-136. (10205) INSPECTION REPORT FORM FD 2420. The inspection report form is attached to this chapter as an Appendix.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-137. (10401) SUBMISSION OF PLANS. Whenever a food service establishment is constructed or extensively remodeled, and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to this department for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the types and models of proposed fixed equipment and facilities. The department shall approve the plans and specifications if they meet the requirements of this chapter. No food service establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the department.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

47-04-03.1-138. (10402) PREOPERATIONAL INSPECTION. Whenever plans and specifications are required by section 47-04-03.1-137 to be submitted to the department, the department shall inspect the food service establishment prior to the start of operations, to determine compliance with the approved plans and specifications and with the requirements of this chapter.

History: Effective October 1, 1979.

General Authority
NDCC 19-02.1-20

Law Implemented
NDCC 19-02.1-09

NORTH DAKOTA STATE LABORATORIES																																																																												
FOOD SERVICE ESTABLISHMENT INSPECTION REPORT																																																																												
Based on an inspection this day, the items circled below identify the violation in operations or facilities which must be corrected by the next routine inspection or such shorter period of time as may														be specified in writing by the regulatory authority. Failure to comply with any time limits for corrections specified in this notice may result in cessation of your Food Service operations.																																																														
OWNER NAME														ESTABLISHMENT NAME																																																														
ADDRESS																								ZIP CODE																																																				
ESTABLISHMENT I.D.										CENSUS TRACT				SANIT. CODE		DATE				INSPECT. TIME (Hrs.)		PURPOSE				29																																																		
COUNTY			DISTRICT			TYPE				EST. NO.			17		18		19		20		21		22		23		24		25		26		27		28		Regular	Complaint	Investigation	Follow-up	Other																																			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77
FOOD			*01 SOURCE, SOUND CONDITION, NO SPOILAGE			5		30		18			PRE-FLUSHED, SCRAPED, SOAKED			1		47		GARBAGE AND REFUSE DISPOSAL			33			CONTAINERS OR RECEPTACLES, COVERED: ADEQUATE NUMBER, INSECT/RODENT PROOF, FREQUENCY, CLEAN			2		62																																													
02			ORIGINAL CONTAINER, PROPERLY LABELED			1		31		19			WASH, RINSE WATER: CLEAN, PROPER TEMPERATURE			2		48		34			OUTSIDE STORAGE AREA ENCLOSURES PROPERLY CONSTRUCTED, CLEAN; CONTROLLED INCINERATION			1		63																																																
FOOD PROTECTION			*03 POTENTIALLY HAZARDOUS FOOD MEETS TEMPERATURE REQUIREMENTS DURING STORAGE, PREPARATION, DISPLAY, SERVICE, TRANSPORTATION			5		32		*20			SANITIZATION RINSE: CLEAN, TEMPERATURE, CONCENTRATION, EXPOSURE TIME, EQUIPMENT, UTENSILS SANITIZED			4		49		*35			INSECT, RODENT, ANIMAL CONTROL PRESENCE OF INSECT/RODENTS - OUTER OPENINGS PROTECTED, NO BIRDS, TURTLES, OTHER ANIMALS			4		64																																																
*04			FACILITIES TO MAINTAIN PRODUCT TEMPERATURE			4		33		21			WIPING CLOTHS: CLEAN, STORED, RESTRICTED			1		50		36			FLOORS, WALLS AND CEILINGS FLOORS: CONSTRUCTED, DRAINED, CLEAN, GOOD REPAIR, COVERING INSTALLATION, DUSTLESS CLEANING METHODS			1		65																																																
05			THERMOMETERS PROVIDED AND CONSPICUOUS			1		34		22			FOOD CONTACT SURFACES OF EQUIPMENT AND UTENSILS CLEAN, FREE OF ABRASIVES, DETERGENTS			2		51		37			WALLS, CEILING, ATTACHED EQUIPMENT CONSTRUCTED, GOOD REPAIR, CLEAN SURFACES, DUSTLESS CLEANING METHODS			1		66																																																
06			POTENTIALLY HAZARDOUS FOOD PROPERLY THAWED			2		35		23			NON-FOOD CONTACT SURFACES OF EQUIPMENT AND UTENSILS CLEAN			1		52		38			LIGHTING LIGHTING PROVIDED AS REQUIRED, FIXTURES SHIELDED			1		67																																																
*07			UNWRAPPED AND POTENTIALLY HAZARDOUS FOOD NOT RE-SERVED			4		36		24			STORAGE, HANDLING OF CLEAN EQUIPMENT/UTENSILS			1		53		39			VENTILATION ROOMS AND EQUIPMENT VENTED AS REQUIRED			1		68																																																
08			FOOD PROTECTION DURING STORAGE, PREPARATION, DISPLAY, SERVICE, TRANSPORTATION			2		37		25			SINGLE-SERVICE ARTICLES, STORAGE, DISPENSING, USED			1		54		40			DRESSING ROOMS ROOMS CLEAN, LOCKERS PROVIDED, FACILITIES CLEAN, LOCATED, USED			1		69																																																
09			HANDLING OF FOOD (ICE) MINIMIZED			2		38		26			NO RE-USE OF SINGLE SERVICE ARTICLES			2		55		*41			OTHER OPERATIONS NECESSARY TOXIC ITEMS PROPERLY STORED, LABELED, USED			5		70																																																
10			IN USE, FOOD (ICE) DISPENSING UTENSILS PROPERLY STORED			1		39		WATER			*27			WATER SOURCE, SAFE: HOT AND COLD UNDER PRESSURE			5		56		42			PREMISES MAINTAINED, FREE OF LITTER, UNNECESSARY ARTICLES, CLEANING MAINTENANCE EQUIPMENT PROPERLY STORED, AUTHORIZED PERSONNEL			1		71																																													
PERSONNEL			*11 PERSONNEL WITH INFECTIONS RESTRICTED			5		40		SEWAGE			*28			SEWAGE AND WASTE WATER DISPOSAL			4		57		43			COMPLETE SEPARATION FROM LIVING/SLEEPING QUARTERS, LAUNDRY			1		72																																													
*12			HANDS WASHED AND CLEAN, GOOD HYGIENIC PRACTICES			5		41		PLUMBING			29			INSTALLED, MAINTAINED			1		58		44			CLEAN, SOILED LINEN PROPERLY STORED			1		73																																													
13			CLEAN CLOTHES, HAIR RESTRAINTS			1		42		*30			CROSS-CONNECTION, BACK SIPHONAGE, BACKFLOW			5		59		45			FOLLOW-UP YES 1 NO 2			74		RATING SCORE ("100" Less Weight of Items Violated)		75		76		77																																										
FOOD EQUIPMENT AND UTENSILS			14			FOOD (ICE) CONTACT SURFACES: DESIGNATED, CONSTRUCTED, MAINTAINED, INSTALLED, LOCATED			2		43		TOILET AND HANDWASHING FACILITIES			*31			NUMBER, CONVENIENT, ACCESSIBLE, DESIGNED, INSTALLED			4		60		46			CRITICAL ITEMS REQUIRING IMMEDIATE ACTION			RECEIVED BY (Name and Title)		INSPECTED BY (Name and Number and Title)																																										
15			NON-FOOD CONTACT SURFACES: DESIGNATED, CONSTRUCTED, MAINTAINED, INSTALLED, LOCATED			1		44		32			TOILET ROOMS ENCLOSED, SELF-CLOSING DOORS, FIXTURES, GOOD REPAIR, CLEAN, HAND CLEANSER, SANITARY TOWELS/TISSUE/HAND-DRYING DEVICES PROVIDED, PROPER WASTE RECEPTACLES			2		61		47																																																								
16			DISHWASHING FACILITIES: DESIGNATED, CONSTRUCTED, MAINTAINED, INSTALLED, OPERATED			2		45		48										49																																																								
17			ACCURATE THERMOMETERS, CHEMICAL TEST KITS PROVIDED, GAUGE COCK (1/2" IPS VALVE)			1		46		50										51																																																								

ITEM NO.	REMARKS	CORRECTED BY

TITLE 55

NURSING HOME ADMINISTRATORS, BOARD OF EXAMINERS FOR

STAFF COMMENT: The change to section 55-01-01-01 is not a "substantive" change to a rule. The section is the organizational rule of the board and the change reflects the change in board membership.

55-01-01-01. ORGANIZATION AND FUNCTIONS OF THE STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS.

1. HISTORY. The 1969 legislative assembly created the board of examiners for nursing home administrators by legislation, codified as North Dakota Century Code chapter 43-34. This chapter establishes the state board of examiners for nursing home administrators. The responsibility of the board is to develop and enforce high standards for nursing home administrators. The board's duties and powers are prescribed by law.
2. BOARD MEMBERSHIP. The board consists of nine members, with six appointed by the governor. Three members of the board are the state health officer, executive director of the state social service board, and the commissioner of higher education; one is a physician, one is a hospital administrator, and one is a nurse; and three are nursing home administrators. The appointed members serve three-year terms.
3. OFFICERS. The board elects a chairperson, a vice chairperson, and a secretary-treasurer from its membership.
4. INQUIRIES. Inquiries regarding the board may be addressed to the executive secretary:

Mr. Clemens R. Busch, Executive Secretary
Division of Health Facilities
1200 Missouri Avenue
Bismarck, North Dakota 58501
(701) 224-2352

5. PERSONNEL ROSTER. All correspondence to the below-listed persons should be addressed as follows:

Mr. Al Holte, ~~Vice-Chairman~~ Chairman
Administrator
Lake Region Lutheran Home
Devils Lake, North Dakota 58301
(701) 662-4906

Mr. Bernard Okland, Vice Chairman
Administrator

Missouri Slope Lutheran Home
Bismarck, North Dakota 58501
(701) 223-9407

Jonathon B. Weisbuch, M.D., Secretary-Treasurer
State Health Officer
State Department of Health
Bismarck, North Dakota 58505
(701) 224-2372

Mr. Wayne L. Hansen; -Chairman
Administrator
Bethel Lutheran Home for the Aged
Williston, North Dakota 58801
(701) 572-6766

Mrs. Doris M. Steckler
Post Office Box 614
Dickinson, North Dakota 58601
(701) 225-5138

Sister Madonna Wagendorf
Administrator
Garrison Memorial Hospital
Garrison, North Dakota 58540
(701) 463-2275

Dr. Thomas E. Jacobsen, M.D.
United Clinics, P.C.
Hettinger, North Dakota 58639
(701) 567-2414

Mr. T. N. Tangedahl
Executive Director
Social Service Board
Bismarck, North Dakota 58505
(701) 224-2310

Mrs. Gwen Solien
Administrator
Americana Healthcare Center
Fargo, North Dakota 58102
(701) 237-3030

Mr. -Don- E- Jamieson
Administrator
Fargo-Nursing-Home
Fargo, -North-Dakota--58102
(701)-235-7597

Glenn-E--Sondag; -M-D-
United-Clinics; -P-C-
Hettinger; -North-Dakota--58639
(701)-567-2414

Mr.-Kenneth-E.-Raschke
Commissioner
Board-of-Higher-Education
Bismarck;-North-Dakota--58505
(701)-224-2968

History: Amended effective October 1, 1979.

General Authority
NDCC 28-32-01.1

Law Implemented
NDCC 28-32-02.1

TITLE 69
PUBLIC SERVICE COMMISSION

STAFF COMMENT: All Public Service Commission rules in this supplement are new material.

ARTICLE 69-03
MOTOR CARRIER DIVISION

Chapter	
69-03-01	Authority
69-03-02	Insurance and Bonds
69-03-03	Fees
69-03-04	Service
69-03-05	Records and Reports
69-03-06	Leases
69-03-07	Parts and Accessories
69-03-08	Qualifications of Drivers
69-03-09	Driving of Motor Vehicles
69-03-10	Hours of Service - Drivers
69-03-11	Registration of ICC Operating Authority
69-03-12	<u>Hazardous Materials</u>
69-03-13	<u>Definitions</u>
69-03-14	<u>Substitute Uses of Motor Vehicle</u>

CHAPTER 69-03-07
PARTS AND ACCESSORIES

Section	
69-03-07-01	Safety and Sanitation - Generally
69-03-07-02	Lighting
69-03-07-03	Heating
69-03-07-04	Fire Extinguisher
69-03-07-05	Reserve Equipment
69-03-07-06	Sleeper Berths
69-03-07-07	Defrosting Device
69-03-07-08	Speedometer
69-03-07-09	Exhaust System Location
69-03-07-10	Floors
69-03-07-11	Rear End Protection
69-03-07-12	Buses - Standee Line or Bar
69-03-07-13	Buses - Marking Emergency Doors
69-03-07-14	Emergency Equipment on All Power Units
69-03-07-15	Buses - Additional Emergency Equipment

<u>69-03-07-16</u>	<u>Required Brake System</u>
<u>69-03-07-17</u>	<u>Parking Brake System</u>
<u>69-03-07-18</u>	<u>Tires</u>
<u>69-03-07-19</u>	<u>Television Receiver</u>
<u>69-03-07-20</u>	<u>Reflectors or Warning Devices for Stopped Vehicles</u>

69-03-07-16. REQUIRED BRAKE SYSTEM. Every bus, truck, truck tractor, or combination of motor vehicles shall have a brake system adequate to control the movement of and to stop and hold the vehicle or combination of vehicles.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-07-17. PARKING BRAKE SYSTEM. Every motor vehicle and every combination of motor vehicles shall have a parking brake system adequate to hold the vehicle or combination on any grade under any condition of loading and on any surface on which it is operated.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-07-18. TIRES.

1. No motor vehicle shall be operated while equipped with any tire that has fabric exposed through the tread or sidewall.
2. Any tire on the front wheels of a bus, truck, or truck tractor shall have a tread groove pattern depth of at least four thirty-seconds of an inch [3.18 millimeters] when measured at any point on a major tread groove. The measurements shall not be made where tie bars or humps are located.
3. Except as provided in subsection 2, tires shall have a tread groove pattern depth of at least two thirty-seconds of an inch [1.59 millimeters] when measured at any point on a major tread groove. The measurements shall not be made where tie bars or humps are located.
4. No bus shall be operated with regrooved, recapped, or retreaded tires on the front wheels.

5. No truck or truck tractor shall be operated with regrooved tires on the front wheels which have a load carrying capacity less than that of 8.25-20 8 ply rating tires.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-07-19. TELEVISION RECEIVER. Any motor vehicle equipped with a television viewer, screen, or other means of visually receiving a television broadcast shall have the viewer or screen located so that it is not visible to the driver while driving the motor vehicle. The operating controls for the television receiver shall be located so that the driver cannot operate them without leaving the driver's seat.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-07-20. REFLECTORS OR WARNING DEVICES FOR STOPPED VEHICLES. No person shall operate any motor truck, passenger bus, or truck tractor on any highway unless the vehicle is carrying one of the following combination of warning devices:

1. Three portable red emergency reflectors, with each reflector containing two reflecting elements one above the other and two red flags not less than 12 inches [30.48 centimeters] square.
2. Three bidirectional emergency reflective triangles, that conform to Federal Motor Vehicle Safety Standard No. 125 (49 C.F.R. 571.125, or as amended).

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

CHAPTER 69-03-09
DRIVING OF MOTOR VEHICLES

Section

69-03-09-01
69-03-09-02

Compliance Required
Additional Carrier Rules Permitted

69-03-09-03	Driving While Ill or Fatigued
69-03-09-04	Narcotics, Amphetamine, and Other Dangerous Substances
69-03-09-05	Alcoholic Beverages
69-03-09-06	Equipment - Inspection and Use
69-03-09-07	Emergency Equipment - Inspection and Use
69-03-09-08	Safe Loading
69-03-09-09	Ignition of Fuel - Prevention
69-03-09-10	Reserve Fuel
69-03-09-11	Buses - Fueling
69-03-09-12	Unauthorized Persons Not To Be Transported
69-03-09-13	Driving by Unauthorized Persons
69-03-09-14	Bus Driver - Distraction
69-03-09-15	Towing or Pushing Loaded Buses
69-03-09-16	Riding Within Closed Vehicles Without Proper Exits
69-03-09-17	Sleeper Berth - Transfer From or To
69-03-09-18	Carbon Monoxide - Use of Vehicle When Detected
69-03-09-19	Flame-Producing Heater - On Vehicle in Motion
69-03-09-20	Motive Power Not to Be Disengaged
69-03-09-21	<u>Schedule to Conform with Speed Limits</u>
69-03-09-22	<u>Hazardous Conditions - Extreme Caution</u>
69-03-09-23	<u>Unsafe Operations Forbidden</u>

69-03-09-21. SCHEDULE TO CONFORM WITH SPEED LIMITS. No motor carrier shall schedule a run, or permit or require the operation of any motor vehicle between points within a period of time that would necessitate the vehicle being operated at speeds greater than those prescribed by the jurisdiction in or through which the vehicle is being operated.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-09-22. HAZARDOUS CONDITIONS - EXTREME CAUTION. Extreme caution in the operation of a motor vehicle shall be exercised when hazardous conditions, such as those caused by snow, ice, sleet, fog, mist, rain, dust, or smoke, adversely affect visibility or traction. Speed shall be reduced when such conditions exist. If conditions become sufficiently dangerous, the operation of the vehicle shall be discontinued and shall not be resumed until the vehicle can be safely operated. Whenever compliance with the foregoing provisions of this section increases hazard to passengers, the motor vehicle may be operated to the nearest point at which the safety of passengers is assured.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-09-23. UNSAFE OPERATIONS FORBIDDEN. No motor carrier shall permit or require a driver to drive any motor vehicle revealed by inspection or operation to be in a condition that its operation would be hazardous or likely to result in a breakdown, nor shall any driver drive any motor vehicle which because of its mechanical condition is hazardous and likely to cause an accident or to break down. If while any motor vehicle is being operated on a highway it is discovered to be in an unsafe condition, it shall be operated only to the nearest place where repairs can safely be effected, and even that limited operation shall be conducted only if it is less hazardous to the public than permitting the vehicle to remain on the highway.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-19-46

CHAPTER 69-03-12
HAZARDOUS MATERIALS

Section	
69-03-12-01	Definitions
69-03-12-02	Application of Rules
69-03-12-03	Compliance With Motor Carrier Safety Regulation
69-03-12-04	State and Local Laws, Ordinances, and Regulations
69-03-12-05	Attendance and Surveillance of Motor Vehicles
69-03-12-06	Parking
69-03-12-07	Routes
69-03-12-08	Fires
69-03-12-09	Smoking
69-03-12-10	Fueling
69-03-12-11	Tires
69-03-12-12	Instructions and Documents
69-03-12-13	Shipping Papers

69-03-12-01. DEFINITIONS. As used in this chapter, except where otherwise indicated:

1. "Class A explosives" means solid explosives which can be caused to deflagrate by contact with sparks or flames such as produced by a safety fuse or an electric squib, but which cannot be detonated by means of a No. 8 test blasting cap. Example: Black powder and low explosives.
2. "Class B explosives" means explosives which in general function by rapid combustion rather than detonation and includes devices such as special fireworks, flash powders, some pyrotechnic signal devices and liquid or solid propellant explosives, which includes some smokeless powders.
3. "Hazardous material" means a substance or material which has been determined by the United States secretary of transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and which has been so designated.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-12-02. APPLICATION OF RULES.

1. The rules in this chapter apply to the following:
 - a. Each motor carrier engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded in accordance with North Dakota Century Code section 39-21-44.
 - b. Each officer or employee of the carrier who performs supervisory duties related to the transportation of hazardous materials.
 - c. Each person who operates or who is in charge of a motor vehicle containing hazardous materials.
2. Each person designated in subsection 1 must know and obey the rules in this chapter.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-12-03. COMPLIANCE WITH MOTOR CARRIER SAFETY REGULATIONS. A motor carrier or other person to whom this chapter is applicable must comply with the rules regarding the transportation of property in chapters 69-03-01 through 69-03-13 when transporting hazardous materials, and must be marked or placarded in accordance with North Dakota Century Code section 39-21-44.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-12-04. STATE AND LOCAL LAWS, ORDINANCES, AND REGULATIONS. Every motor vehicle containing hazardous materials must be driven and parked in compliance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated, unless they are at variance with specific regulations of the United States department of

transportation applicable to the operation of that vehicle and which impose a more stringent obligation or restraint.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-12-05. ATTENDANCE AND SURVEILLANCE OF MOTOR VEHICLES.

1. Except as provided in subsection 2, a motor vehicle which contains class A or class B explosives must be attended at all times by its driver or a qualified representative of the motor carrier that operates it.
2. The rules in subsection 1 do not apply to a motor vehicle which contains class A or class B explosives if all of the following conditions exist:
 - a. The vehicle is located on the property of a motor carrier, on the property of a shipper or consignee of the explosives, or, in the case of a vehicle containing fifty pounds [22.68 kilograms] or less of either class A or class B explosives, on a construction or survey site.
 - b. The lawful bailee of the explosives is aware of the nature of the explosives the vehicle contains and has been instructed in the procedures the bailee must follow in emergencies.
 - c. The vehicle is within the bailee's unobstructed field of view or is located in a safe haven.
3. A motor vehicle which contains hazardous materials other than class A or class B explosives and which is located on a public street or highway or the shoulder of a public highway must be attended by its driver. However, the vehicle need not be attended while its driver is performing duties which are incident and necessary to the driver's duties as the operator of the vehicle.
4. For purposes of this section:
 - a. A motor vehicle is attended when the person in charge of the vehicle is on the vehicle, awake, and is not in a sleeper berth, or is within one hundred feet [30.48 meters] of the vehicle and has it within that person's unobstructed field of view.

b. A qualified representative of a motor carrier is a person who fulfills all the following criteria:

- (1) Has been designated by the carrier to attend the vehicle.
- (2) Is aware of the nature of the hazardous materials contained in the vehicle that person attends.
- (3) Has been instructed in the procedures that person must follow in emergencies.
- (4) Is authorized to move the vehicle and has the means and ability to do so.

5. The rules in this section do not relieve a driver from any obligation imposed by law relating to the placing of warning devices when a motor vehicle is stopped on a public street or highway.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-12-06. PARKING.

1. A motor vehicle which contains class A or class B explosives shall not be parked:
 - a. On or within five feet [1.52 meters] of the traveled portion of a public street or highway.
 - b. On private property (including premises of a fueling or eating facility) without the knowledge and consent of the person who is in charge of the property and who is aware of the nature of the hazardous materials the vehicle contains.
 - c. Within three hundred feet [91.44 meters] of a bridge, tunnel, dwelling, building, or place where people work, or assemble, except for brief periods when the necessities of operation require the vehicle to be parked and make it impracticable to park the vehicle in any other place.
2. A motor vehicle which contains hazardous materials other than class A or class B explosives must not be parked on or within five feet [1.52 meters] of the traveled portion of any public street or highway except for brief periods when the

necessities of operation require the vehicle to be parked and make it impracticable to park the vehicle in any other place.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-12-07. ROUTES.

1. Unless there is no practicable alternative, a motor vehicle which contains hazardous materials shall be operated over routes which do not go through or near heavily populated areas, places where crowds are assembled, tunnels, narrow streets, or alleys. Operating convenience is not a basis for determining whether it is practicable to operate according to this subsection.
2. Before a motor carrier requires or permits a motor vehicle containing class A or class B explosives to be operated, the carrier must prepare a written plan of the route the vehicle will follow that complies with the rules in subsection 1 and must furnish a copy of the written plan to the driver. However, the driver may prepare the written plan as agent for the motor carrier when the driver begins the trip at a location other than the carrier's terminal.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-12-08. FIRES.

1. A motor vehicle containing hazardous materials shall not be operated near an open fire unless its driver has first taken precautions to ascertain that the vehicle can safely pass the fire without stopping.
2. A motor vehicle containing hazardous materials shall not be parked within three hundred feet [91.44 meters] of an open fire.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-12-09. SMOKING. No person may smoke or carry a lighted cigarette, cigar, or pipe on or within twenty-five feet [7.62 meters] of:

1. A motor vehicle which contains explosives, oxidizing materials, or flammable materials; or
2. An empty tank motor vehicle which has been used to transport flammable liquids or gases and which, when so used, was required to be marked or placarded in accordance with the North Dakota Century Code section 39-21-44.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-12-10. FUELING. When fueling a motor vehicle which contains hazardous materials, its engine shall not be operating and a person must be in control of the fueling process at the point where the fuel tank is filled.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-12-11. TIRES.

1. If a motor vehicle which contains hazardous materials is equipped with dual tires on any axle, its driver shall stop the vehicle in a safe location at least once during each two hours or one hundred miles [160.93 kilometers] of travel, whichever is less, and examine its tires. The driver shall also examine the vehicle's tires at the beginning of each trip and each time the vehicle is parked.
2. If, as the result of an examination pursuant to subsection 1 or otherwise, a tire is found to be flat, leaking, or improperly inflated, the driver shall cause the tire to be repaired, replaced, or properly inflated before the vehicle is driven. However, the vehicle may be driven to the nearest

safe place to perform the required repair, replacement, or inflation.

3. If, as the result of an examination pursuant to subsection 1 or otherwise, a tire is found to be overheated, the driver shall immediately cause the overheated tire to be removed and placed at a safe distance from the vehicle. The driver shall not operate the vehicle until the cause of the overheating is corrected.
4. Compliance with this section does not relieve a driver from the duty to comply with sections 69-03-12-05 and 69-03-12-07.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-12-12. INSTRUCTIONS AND DOCUMENTS.

1. A motor carrier that transports class A or class B explosives shall furnish the driver of each motor vehicle in which the explosives are transported with the following documents:
 - a. A copy of the rules in this chapter.
 - b. A document containing instructions on procedures to be followed in the event of accident or delay. The documents shall include the names and telephone numbers of persons (including representatives of carriers or shippers) to be contacted, the nature of the explosives being transported, and the precautions to be taken in emergencies such as fires, accidents, or leakages.
2. A driver who receives documents in accordance with subsection 1 shall sign a receipt for them. The carrier shall retain the receipt in its files for one year at its principal place of business.
3. The driver of a motor vehicle which contains class A or class B explosives shall have in possession and be familiar with all the following:
 - a. The documents specified in subsection 1.
 - b. The documents specified in section 69-03-12-13.

c. The written route plan specified in section 69-03-12-07.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

69-03-12-13. SHIPPING PAPERS.

1. A carrier shall not transport a hazardous material unless it is accompanied by a shipping paper.
2. A driver of a motor vehicle containing hazardous material, and each carrier using such a vehicle, shall ensure that the shipping paper required by this section is readily available to, and recognizable by, authorities in the event of accident or inspection. The driver and the carrier shall:
 - a. Clearly distinguish the shipping paper, if it is carried with other shipping papers or other papers of any kind, by either distinctively tabbing it or by having it appear first.
 - b. Store the shipping paper as follows:
 - (1) When the driver is at the vehicle's controls, the shipping paper shall be within the driver's immediate reach while the driver is restrained by the lap belt and be either readily visible to a person entering the driver's compartment or in a holder which is mounted to the inside of the door on the driver's side of the vehicle.
 - (2) When the driver is not at the vehicle's controls, the shipping paper shall be at either of the following locations:
 - (a) In a holder which is mounted to the inside of the door on the driver's side of the vehicle.
 - (b) On the driver's seat in the vehicle.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

CHAPTER 69-03-13
DEFINITIONS

Section
69-03-13-01 Definitions

69-03-13-01. DEFINITIONS. As used throughout this article, except where the context otherwise requires:

1. "Bus" means any motor vehicle designed, constructed, and used for the transportation of passengers, including taxicabs.
2. "Business district" means territory contiguous to a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet [91.44 meters] or more is occupied by buildings used for business purposes.
3. "Driveaway-towaway operations" means any operation in which any motor vehicle or motor vehicles, new or used, constitute the commodity being transported, when one set or more of wheels of any such motor vehicle or motor vehicles are on the roadway during the course of transportation; whether or not any such motor vehicle furnishes the motive power.
4. "Driver" means any person who drives any motor vehicle.
5. "Full trailer" means any motor vehicle, with or without motive power, designed to be drawn by another motor vehicle, and so constructed that no part of its weight except the towing device rests upon the towing vehicle. A semitrailer equipped with an auxiliary front axle (dolly) shall be deemed to be a "full trailer". A "pole trailer" is not a "full trailer".
6. "General exemptions" means:
 - a. Intracity operations. The rules in this article do not apply to a driver wholly engaged in exempt intracity operations as defined in North Dakota Century Code sections 49-18-03 and 49-18-04.
 - b. Passenger car operations. The rules in this article do not apply to a driver who drives only a motor vehicle that fulfills all the following criteria:
 - (1) Is a passenger-carrying vehicle built on a passenger car chassis with a seating capacity of ten or fewer persons, including the driver.

- (2) Is not transporting passengers for hire.
 - (3) Is not transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with North Dakota Century Code section 39-21-44.
7. "Gross weight" means the combined weight of the motor vehicle and any load thereon.
 8. "Motor carrier", except as otherwise specifically provided, means a common carrier by motor vehicle, a contract carrier by motor vehicle, and agents, officers, representatives, and employees of a motor carrier, who are responsible for the hiring, supervising, training, assigning or dispatching of drivers.
 9. "Motor vehicle" means any vehicle, bus, truck, truck tractor, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead source and furnishing local passenger transportation similar to street-railway service.
 10. "Pole trailer" means any vehicle without motive power, possibly of variable wheel base, designed to be drawn by another vehicle, and attached to the towing vehicle by means of a "reach", or "pole", or by being "boomed" or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular-shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connection.
 11. "Residence district" means territory contiguous to a highway not comprising a business district, when the frontage on the highway for a distance of three hundred feet [91.44 meters] or more is occupied mainly by dwellings and buildings used for business.
 12. "Safe haven" means an area specifically approved in writing by local, state, or federal governmental authorities for the parking of unattended vehicles containing class A or class B explosives.
 13. "Semitrailer" means any motor vehicle other than a "pole trailer", with or without motive power, designed to be drawn by another motor vehicle and so constructed that some part of its weight rests upon the towing vehicle.
 14. "Shipping paper" means a shipping order, bill of lading, manifest, or other shipping document serving a similar purpose

and containing the information required by the United States department of transportation, materials transportation bureau (49 C.F.R. 172.202, 172.203, and 172.204, or as amended).

15. "Truck" means any self-propelled motor vehicle except a truck tractor, designed and used, or exclusively used whether or not so designed, for the transportation of property.
16. "Truck tractor" means a self-propelled motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
17. "Vehicle" means any conveyance of any type whatsoever operated upon the highways.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

CHAPTER 69-03-14
SUBSTITUTE USES OF MOTOR VEHICLE

Section
69-03-14-01 Substitute Uses of Motor Vehicle

69-03-14-01. SUBSTITUTE USES OF MOTOR VEHICLE. Whenever any motor vehicle other than a bus is used to perform the functions normally performed by a bus, the regulations pertaining to buses and to the transportation of passengers shall apply to that motor vehicle and to its operation as though it were a bus, except with respect to vehicles operated by a motor carrier to transport its employees to and from their place of work in the regular course of the carrier's business. Likewise, whenever any motor vehicle of one type is used to perform the functions normally performed by a motor vehicle of another type, the requirements of chapters 69-03-01 through 69-03-13 shall apply to that motor vehicle and to its operations in the same manner as though such motor vehicle were actually a motor vehicle of the other type.

History: Effective October 1, 1979.

General Authority
NDCC 49-18-46

Law Implemented
NDCC 49-18-46

TITLE 72

SECRETARY OF STATE

STAFF COMMENT: The changes to these sections correct typographical errors.

72-02-02-02. CONTRACT BETWEEN BOXER AND PROMOTER. All contracts between a boxer and a licensed promoting corporation for the services of a boxer in a contest, shall contain the following paragraph:

The party of the first part agrees to be equipped with a foul-proof guard of the party of the first part's own selection, type to be approved by the commissioner, which will obviate the necessity of a claim being made for a low blow during the contest. if It is expressly understood that this contest is not to be terminated by a low blow, as the protector selected by the party of the first part is, in the party of the first part's opinion, sufficient protection to withstand any so called low blow which might incapacitate the said boxer.

General Authority
NDCC 53-01-07

Law Implemented
NDCC 53-01-07,
53-01-16

72-02-02-09. CONTRACTS WITH NEWS MEDIA. All contracts entered into by any licensee of the commissioner or any and all ~~amendments~~ amendments, changes, or modifications calling for or referring to any motion picture, telecast, or radio broadcast of the bout, exhibition, or match must be promptly filed with the commissioner for approval and no person or party may ~~annouce-of~~ announce or conduct any such broadcast or telecast of any bout, exhibition, or match conducted under the jurisdiction of the commissioner without first obtaining the approval of the commissioner.

General Authority
NDCC 53-01-07

Law Implemented
NDCC 53-01-07,
53-01-16

TITLE 73

SECURITIES COMMISSIONER

STAFF COMMENT: This is the first time since the code was published that an agency pointed out rules repealed as the result of statutory changes by the 1979 Legislative Session.

ARTICLE 73-02

SECURITIES ACT OF 1951

Chapter	
73-02-01	Registration of Securities
73-02-02	Exempt Securities <u>[Repealed]</u>
73-02-03	Exempt Transactions
73-02-04	Advertising Matter
73-02-05	Unlawful Representations Concerning Registration or Exemption
73-02-06	Registration of Dealers, Salesmen, and Investment Advisers

CHAPTER 73-02-02
EXEMPT SECURITIES

Section	
73-02-02-01	Securities Listed on Federal Reserve Board's Regulation "T" List <u>[Repealed]</u>
73-02-02-02	Limited Approval of Chicago Board Options Exchange and Philadelphia Stock Exchange <u>[Repealed]</u>
73-02-02-03	Approval of Pacific Stock Exchange <u>[Repealed]</u>

73-02-02-01. SECURITIES LISTED ON FEDERAL RESERVE BOARD'S REGULATION "T" LIST. ~~Securities listed on the federal reserve board's most recently published regulation "t" list are exempt from registration under North Dakota Century Code section 10-04-07:1 if all of the following are satisfied:~~

- ~~1. No securities; the registration of which has been stopped; suspended; or revoked or an application for the registration of which has been either denied or withdrawn; are eligible for this exemption:~~

2:--The--securities--are--sold--at--prices--reasonably--related--to--the--current market--price--at--the--time--of--sale;--and--the--commissions--collected--on account--of--the--sale--are--not--in--excess--of--usual--and--customary--commissions collected--with--respect--to--securities--and--transactions--having--comparable characteristics:

3:--The--securities--do--not--constitute--an--unsold--allotment--to--or--subscription by--a--dealer--as--a--participant--in--the--distribution--of--the--securities--by the--issuer;--its--officers--or--directors;--or--by--or--through--an--underwriter:

4:--Securities---of---open--end--management--companies;---mutual--funds;---unit investment--trusts;---contractual--plans;---and--face--amount---certificate companies--are--ineligible--for--this--exemption:

General Authority
ND66-10-04-05(6)

Law Implemented
ND66-10-04-05(6)

[Repealed as the result of S.L. 1979, ch. 151, § 2.]

73-02-02-02. LIMITED APPROVAL OF CHICAGO BOARD OPTIONS EXCHANGE AND PHILADELPHIA STOCK EXCHANGE. The--Chicago--board--options--exchange;--incorporated; and--the--Philadelphia--stock--exchange;--incorporated;--are--approved--as--stock--exchanges under--subsection--6--of--North--Dakota--Century--Code--section--10-04-05--for--the--limited purpose--of--trading--listed--options--contracts--issued--by--the--options--clearing corporation:

General Authority
ND66-10-04-05(6)

Law Implemented
ND66-10-04-05(6)

[Repealed as the result of S.L. 1979, ch. 151, § 2.]

73-02-02-03. APPROVAL OF PACIFIC STOCK EXCHANGE. The--Pacific--stock exchange;--incorporated;--is--approved--as--a--stock--exchange--under--subsection--6--of North--Dakota--Century--Code--section--10-04-05:

General Authority
ND66-10-04-05(6)

Law Implemented
ND66-10-04-05(6)

[Repealed as the result of S.L. 1979, ch. 151, § 2.]

TITLE 74

SEED COMMISSION

STAFF COMMENT: Article 74-06 contains all new material. These rules are not subject to North Dakota Century Code chapter 28-32; however, the rules are voluntarily published in the code.

TITLE 74

SEED COMMISSION

The Seed Commission is not necessarily an administrative agency as defined by North Dakota Century Code section 28-32-01. Therefore, the commission may not be subject to the Administrative Agencies Practice Act (North Dakota Century Code chapter 28-32). However, for public information purposes the commission has placed its rules in the style and format required for the North Dakota Administrative Code and the rules of the commission are published as title 74.

Article

- 74-01 General Administration
- 74-02 Seed
- 74-03 Seed Certification Standards
- 74-04 Seed Potato Certification Standards
- 74-05 Wholesale Potato Dealers
- 74-06 Commodity Standards

ARTICLE 74-06
COMMODITY STANDARDS

Chapter
74-06-01 Rapeseed
74-06-02 Buckwheat

CHAPTER 74-06-01
RAPESEED

Section
74-06-01-01 Class
74-06-01-02 Determination of Dockage
74-06-01-03 Grading Admixtures
74-06-01-04 Soundness
74-06-01-05 Moisture
74-06-01-06 North Dakota Rapeseed Standards - Grading
 Factors - Maximum Tolerances
74-06-01-07 Inspection Fees and Types of Analysis
 on Rapeseed

74-06-01-01. CLASS. Rapeseed (*Brassica campestris* and *B. napus*) shall consist of fifty percent or more of whole seed of rapeseed before removal of dockage and is graded without reference to class or variety.

History: Effective September 1, 1979.

General Authority
NDCC 4-09.1-02

Law Implemented
NDCC 4-09.1-02

74-06-01-02. DETERMINATION OF DOCKAGE.

1. Determination by hand sieves shall be by 6x22, 6x21, 6x20, 6x18 mesh per inch [2.54 centimeters] wire sieves and 5/64, 5.5/64, 6/64, 6.5/64, 7/64, 7.5/64 inch round hole sieves.
2. Determination by machine shall be by the Carter dockage tester for aspiration.

a. Dockage determination shall be made on the basis of a representative portion of five hundred grams of rapeseed cut from the sample as a whole as follows:

- (1) The sample is scalped on the appropriate round hole sieve which will achieve maximum removal of large foreign material with minimum loss of rapeseed.
- (2) The scalped sample is run over the carter dockage tester for aspiration using feed 3 and air 5 settings, using the 000 plastic riddle.
- (3) The sample is then screened on the wire mesh sieve which achieves maximum clean out of weed seeds and other foreign material with a minimum loss of reasonably sound rapeseed.
- (4) A representative subsample of not less than twenty grams properly divided from the cleaned sample is handpicked for the remaining inseparable foreign matter (matter other than rapeseed) which is easily distinguished by visual inspection.

b. Computation of total dockage shall be as follows:

- (1) The percent of dockage removed by the hand sieves and the carter dockage tester shall be computed on the basis of the sample as a whole. The percentage of dockage removed by handpicking shall first be computed on the basis of the handpicked portion and then on the basis of the percentage of the mechanically cleaned and hand-sieved rapeseed.

For example, if in a given sample, the dockage removed by mechanical means and hand sieves is ten percent, the percentage of mechanically cleaned and hand-sieved seed (or rapeseed) is ninety percent. If the percentage of dockage removed by handpicking is two percent of the handpicked portion, the two percent shall be multiplied by nine-tenths to obtain the percent of handpicked dockage, one and eight-tenths. The percent of mechanically and hand-sieved dockage, ten percent is then added to the handpicked dockage, one and eight-tenths percent to give a total dockage of eleven and eight-tenths percent.

- (2) Dockage is assessed to the nearest one-tenth of one percent. The results of individual cleaning procedures will be recorded on the reverse side of the sample tickets.

Example: 3.4% 5/64 round holes,
4% 6x21 wire, 1.7% air

History: Effective September 1, 1979.

General Authority
NDCC 4-09.1-02

Law Implemented
NDCC 4-09.1-02

74-06-01-03. GRADING ADMIXTURES.

1. Conspicuous admixtures: over one percent to three and five-tenths percent inseparable foreign material that is conspicuous, grade Rapeseed, "Rejected Admixture" (Inseparable Seeds) and the excess over two and five-tenths percent is added to the dockage. Samples containing over three and five-tenths percent grade Rapeseed, Samples North Dakota "Admixtures" (Inseparable Seeds).
2. Inconspicuous admixtures refers to common wild mustard and domestic brown mustard seeds. Up to five percent in rapeseed is disregarded in grading. Samples containing in excess of five percent to fifty percent grade Rapeseed, Sample North Dakota "Admixture" (Inseparable Seeds); over fifty percent including conspicuous admixtures, grade "Refuse Screenings," (Rapeseed).
3. Earth pellets (soft) are handpicked from the cleaned sample and up to two and five-tenths percent are added to the dockage; over two and five-tenths percent grade Rapeseed, Sample North Dakota "Admixture" (Earth Pellets).
4. Sclerotinia Sclerotiorum: in excess of three-tenths percent grade Rapeseed, Sample North Dakota "Admixture" (Sclerotinia).
5. Stones: over five-hundredths percent to two and five-tenths percent grade Rapeseed, Rejected; stones over two and five-tenths percent grade Sample Salvage.

History: Effective September 1, 1979.

General Authority
NDCC 4-09.1-02

Law Implemented
NDCC 4-09.1-02

74-06-01-04. SOUNDNESS. To assess the amount of distinctly green seeds and heat-damaged rapeseed, a minimum of five strips of one hundred seeds each shall be crushed with a roller and examined. The percent of damage shall be based on the crushed count from the cleaned sample.

1. "Broken seeds" refers to any broken rapeseed that is not assessed as dockage and otherwise sound is considered as sound.
2. "Damaged" includes seeds that are distinctly shrunken or shriveled as from frost, discolored as from mold, completely rimed or excessive weathering, distinctly green seeds, sprouted, heated or otherwise distinctly damaged seeds.
3. "Distinctly green seeds" refers to rapeseed after being crushed, is of a vivid green color throughout the seed.
4. "Heat-damaged seed" includes rapeseed and pieces of rapeseed which have been discolored - light tan to charcoal black - and damaged by excessive respiration or any other heating or drying process. Samples containing heated in excess of two percent or having a distinctly heated odor in combination with any heated seeds, grade Rapeseed North Dakota "Heated."
5. "Odor" includes sharp, acrid odors usually caused by rapeseed that has gone through a heating condition due to excessive respiration. The determination of odor shall be based on the strips of rapeseed used to determine heat damage, after crushing. Rapeseed that is distinctly sour, musty, or has a commercially objectionable odor will be graded Sample North Dakota "Odor".

History: Effective September 1, 1979.

General Authority
NDCC 4-09.1-02

Law Implemented
NDCC 4-09.1-02

74-06-01-05. MOISTURE. Percentage of moisture shall be that ascertained by the air oven or ascertained by any device and method which shall give equivalent results in the determination of moisture. A sound sample shall have a moisture not exceeding ten and five-tenths percent. The sample will be graded "Tough" between ten and six-tenths

percent and twelve and five-tenths percent and over twelve and five-tenths percent as "Damp". Where applicable, these terms shall be shown after the grade class.

History: Effective September 1, 1979.

General Authority
NDCC 4-09.1-02

Law Implemented
NDCC 4-09.1-02

74-06-01-06. NORTH DAKOTA RAPESEED STANDARDS - GRADING FACTORS - MAXIMUM TOLERANCES.

	GRADE		
	No. 1 North Dakota	No. 2 North Dakota	No. 3 North Dakota
Damage - Heated	0.1 %	0.5 %	2 %
Damage - Distinctly Green Seeds	2 %	6 %	20 %
Damage - Total	3 %	10 %	20 %
Admixtures of Foreign Material - Sclerotinia	0.1 %	0.2 %	0.3 %
Admixtures of Foreign Material - Stones	0.05%	0.05%	0.05%
Admixtures of Foreign Material - Total Conspicuous Admixtures	1 %	1 %	1 %
*Inconspicuous Admixture	5 %	5 %	5 %

*Includes common wild mustard seed or domestic brown mustard seed, or both.

History: Effective September 1, 1979.

General Authority
NDCC 4-09.1-02

Law Implemented
NDCC 4-09.1-02

74-06-01-07. INSPECTION FEES AND TYPES OF ANALYSIS ON RAPESEED.

1. Grade determination - Official samples.

(Form CI-1) samples taken by North Dakota state seed department authorized inspectors.

Grading - not including sampling - \$12.00

2. Grade determination - Submitted samples.

(Form CI-2) samples not officially taken under North Dakota state seed department supervision.

Grading - \$12.00

3. Percentage of Admixtures.

(Form - Seed Analysis Report)
Percentage by weight, reported to the nearest one-tenth of one percent of the following:

Mustard including all wild and domestic species, combined;
Other seeds - all seeds other than the mustard group.

Analysis of five grams - \$ 5.00

4. Percentage of Mustard Seed.

(Form - Seed Analysis Report)

Total mustard seed, reported to the nearest one-tenth of one percent by weight.

Analysis of five grams - \$ 5.00

5. Factor Analysis.

Per factor -

\$ 2.00

Completely rimed seed	Infestation
Conspicuous admixture	Moisture
Distinctly green seed	Odor
Dockage	Sclerotina
Heat-damaged seed	Stones
Inconspicuous admixture	Total damaged seed

History: Effective September 1, 1979.

General Authority
NDCC 4-09.1-03

Law Implemented
NDCC 4-09.1-03

CHAPTER 74-06-02
BUCKWHEAT

Section	
74-06-02-01	Classes
74-06-02-02	Procedure
74-06-02-03	Determination of Dockage
74-06-02-04	Type
74-06-02-05	Standards for Buckwheat
74-06-02-06	Inspection Fees and Types of Analysis on Buckwheat

74-06-02-01. CLASSES. Classes of buckwheat include any domestic variety.

History: Effective September 1, 1979.

General Authority
NDCC 4-09.1-02

Law Implemented
NDCC 4-09.1-02

74-06-02-02. PROCEDURE. A representative portion of five hundred or one thousand grams is properly divided from the uncleaned sample and passed through the Carter dockage tester with settings as follows:

Slot 1. Oilseed Riddle
Slot 2. No top Sieve
Slot 3. # 8 Sieve 6/64 Triangle
Slot 4. # 6 Sieve 5/64 Triangle

Set Feed on # 6
Air Control on # 6

History: Effective September 1, 1979.

General Authority
NDCC 4-09.1-02

Law Implemented
NDCC 4-09.1-02

74-06-02-03. DETERMINATION OF DOCKAGE.

1. Determine dockage.

Dockage (Drop fraction or five-tenths percent).

Pan #1 Material over # 2 Riddle. If any buckwheat is in this pan, remove and return to dockage free buckwheat.

Pan #2 Material over # 8 Sieve. This is the dockage free buckwheat.

Pan #3 Material through # 8 Sieve. If over fifty percent of dockage, add to dockage. If over fifty percent of cultivated buckwheat return all of this material to dockage free buckwheat.

Pan #4 Material through # 6 Bottom Sieve.

Dockage consists of air dockage plus contents of Pan #4. Dockage is defined as all matter other than buckwheat which can be removed readily from a test portion of the original sample by use of an approved device in accordance with the procedures prescribed in the Federal Grain Inspection Manual. Dockage ranging from five-tenths percent to nine-tenths percent shall be expressed as five-tenths percent, dockage ranging from one percent to one and four-tenths percent shall be expressed as one percent, and dockage ranging from one and five-tenths percent to one and nine-tenths percent shall be expressed as one and five-tenths percent, etc.

2. Take test weight on dockage free portion (whole and half pounds only).
3. Check sixty gram dockage free portion for foreign material. Foreign material is defined as all other matter other than buckwheat which remains in the sample after the removal of dockage and shrunken and broken kernels.
4. Check sample for foreign odor.
5. Perform a moisture test (two hundred fifty grams sample as a whole).

History: Effective September 1, 1979.

General Authority
NDCC 4-09.1-02

Law Implemented
NDCC 4-09.1-02

74-06-02-04. TYPE. The type shall be designated by size, large or small, determined by sizing using an 8/64 x 3/4 slotted sieve, and shall be added to and become part of the grade name, e.g., No. 1 North Dakota Large.

1. The designation is large when at least eighty percent of the buckwheat remains on top an 8/64 x 3/4 slotted sieve. The designation is small when over twenty percent of the buckwheat passes through an 8/64 x 3/4 slotted sieve.
2. The determination of type shall be by a manual or mechanical method.
 - a. For the manual method a representative portion of two hundred fifty grams of the cleaned sample is sized using an 8/64 x 3/4 slotted hand sieve nested over a blank tray. The sample is placed on the sieve and shaken lengthwise of the slots for twenty strokes, a stroke being about twenty centimeters back and forth.
 - b. For the mechanical method a representative portion of two hundred fifty grams of the cleaned sample is sized over the Carter dockage tester as follows:

Air - off Top section - (8/64 x 3/4) slotted sieve
Feed - # 6 Center section - Blank tray
Riddle - Nil

The machine is turned off only after the sample has passed over the sieve.

NOTE: All buckwheat passing through an 8/64 x 3/4 slotted sieve shall be weighed and percentage determined.

History: Effective September 1, 1979.

General Authority
NDCC 4-09.1-02

Law Implemented
NDCC 4-09.1-02

74-06-02-05. STANDARDS FOR BUCKWHEAT. For the purpose of the official grain standards of North Dakota for buckwheat:

Grade	Maximum Limits of	
	Moisture	Foreign Material
	Percent	Percent
No. 1 North Dakota	16	2
No. 2 North Dakota	18	4
No. 3 North Dakota	20	6
No. 4 North Dakota	Sample Grade - Buckwheat which has any commercially objectionable foreign odor, or is musty, sour, or is heating, hot, or otherwise unfit for the higher grades; shall be graded Sample Grade Buckwheat with the inspector's notation as to the quality and condition.	

1. Dockage is all matter other than buckwheat which can be removed readily from a test portion of the original sample by use of an approved device in accordance with the procedures prescribed in the Federal Grain Inspection Manual. Dockage ranging from five-tenths percent to nine-tenths percent shall be expressed as five-tenths percent, dockage ranging from one percent to one and four-tenths percent shall be expressed as one percent, and dockage ranging from one and five-tenths percent to one and nine-tenths percent shall be expressed as one and five-tenths percent, etc.
2. Percentages, except in the case of moisture, shall be percentages ascertained by weight.
3. Percentage of moisture shall be that ascertained by the air oven or ascertained by any device and method which give equivalent results in the determination of moisture.
4. Test weight per bushel [35.24 liters] shall be the weight per Winchester Bushel or as determined by any device and method which give equivalent results in the determination of test weight per bushel [35.24 liters] when free from dockage.
5. Foreign material includes all other matter other than buckwheat, which remains in the sample after removal of dockage, and shrunken and broken kernels.

6. All grades may contain three stones per five hundred grams; in excess of three stones per five hundred grams up to two and five-tenths percent grade Buckwheat, Rejected "grade" Account Stones; in excess of two and five-tenths percent grade Buckwheat, Sample Salvage.

History: Effective September 1, 1979.

General Authority
NDCC 4-09.1-02

Law Implemented
NDCC 4-09.1-02

74-06-02-06. INSPECTION FEES AND TYPES OF ANALYSIS ON BUCKWHEAT.

1. Grade determination for official samples.

(Form CI-1) samples taken by North Dakota state seed department authorized inspectors.

Grading - not including sampling - \$ 8.00

2. Grade determination for submitted samples.

(Form CI-2) samples not officially taken under North Dakota state seed department supervision.

Grading - \$ 8.00

History: Effective September 1, 1979.

General Authority
NDCC 4-09.1-03

Law Implemented
NDCC 4-09.1-03

TITLE 75
SOCIAL SERVICE BOARD

STAFF COMMENT: Chapter 75-03-05 contains all new material.

ARTICLE 75-03
COMMUNITY SERVICES

Chapter	
75-03-01	Supplemental Parental Child Care and Family Day Care
75-03-02	Day Care Centers
75-03-03	Foster Care Group Homes
75-03-04	Residential Child Care Facilities
<u>75-03-05</u>	<u>Family Boarding Homes for Special Education Students</u>

CHAPTER 75-03-05
FAMILY BOARDING HOMES FOR SPECIAL EDUCATION STUDENTS

Section	
75-03-05-01	Authority and Objective
75-03-05-02	State Organization
75-03-05-03	Registration Required
75-03-05-04	Registration Process
75-03-05-05	Denial or Revocation of Registration Certificate
75-03-05-06	Inspections
75-03-05-07	Records
75-03-05-08	Standards for Affidavit of Compliance

75-03-05-01. AUTHORITY AND OBJECTIVE. Under the authority vested in the social service board of North Dakota pursuant to North Dakota Century Code chapter 15-59.3, the social service board of North Dakota is empowered to prescribe and promulgate such rules and regulations as are necessary to assure that special education students needing boarding home care are provided proper food, shelter, security, and safety while receiving such care in a family boarding home.

History: Effective October 1, 1979.

General Authority	Law Implemented
NDCC 15-59.3-06	NDCC 59-29-22, 59-59.3-06

75-03-05-02. STATE ORGANIZATION. The social service board of North Dakota is the official state agency charged with the regulation of family boarding home care activities for special education students in the state with exclusive authority to issue registration certificates to homes providing family boarding home care for special education students.

History: Effective October 1, 1979.

General Authority	Law Implemented
NDCC 15-59.2-06	NDCC 15-59.3-01, 15-59.3-04

75-03-05-03. REGISTRATION REQUIRED. All persons, partnerships, voluntary organizations or corporations who desire to establish or operate a family boarding home shall first obtain a registration certificate, except that those providing family boarding home care in the following situations need not register:

1. The home of a relative of the student.
2. A home under the management and control of the state or the public school district.
3. A home or facility furnishing "foster care for children" as defined in subsection 1 of North Dakota Century Code section 50-11-00.1.

History: Effective October 1, 1979.

General Authority
NDCC 15-59.3-06

Law Implemented
NDCC 15-59.3-02

75-03-05-04. REGISTRATION PROCESS.

1. Any person desiring to provide boarding home care for special education students in a family boarding home shall apply for a registration certificate, therein certifying compliance with the applicable provisions of North Dakota Century Code chapter 15-59.3 and the standards for such care established by the social service board of North Dakota and shall secure a registration certificate from the board.
2. Application for registration certificates shall be made in a manner prescribed and on forms provided by the social service board of North Dakota for such purposes.
3. Application shall be made to the special education director in the special education district wherein the applicant proposes to provide registered family boarding home care.
4. Upon acceptance by the social service board of North Dakota of the applicant's affidavit of standard compliance, the applicant shall, within ten days and subject to the provisions of North Dakota Century Code chapter 15-59.3, be entitled to a registration certificate issued by the board.
5. Any registration certificate issued by the social service board of North Dakota shall serve as public documentation that

the provider of registered family boarding home care has in writing certified to the board compliance with the provisions of North Dakota Century Code chapter 15-59.3.

History: Effective October 1, 1979.

General Authority
NDCC 15-59.3-06

Law Implemented
NDCC 15-59.3-04

75-03-05-05. DENIAL OR REVOCATION OF REGISTRATION CERTIFICATE.

1. The right to provide family boarding home care is dependent upon compliance with the applicable provisions of North Dakota Century Code chapter 15-59.3 and the applicable standards contained herein.
2. The social service board of North Dakota may revoke a registration certificate issued to a family boarding home provided the registrant and the district affected by the revocation of such registration certificate shall be informed in writing of the charges and reasons for revocation, and provided further that the registrant shall be afforded an administrative hearing in a manner prescribed by North Dakota Century Code chapter 28-32, if written request for such hearing is made within ten days of receipt of the written charges.
3. The social service board of North Dakota may deny a registration certificate for a family boarding home, provided, that the registrant and the district affected by such denial shall be informed in writing of the charges and the reasons for denial and provided further that the registrant shall be afforded an administrative hearing in a manner prescribed by North Dakota Century Code chapter 28-32, if written request for such hearing is made within ten days of receipt of the written charges.

History: Effective October 1, 1979.

General Authority
NDCC 15-59.3-06

Law Implemented
NDCC 15-59.3-08,
15-59.3-09

75-03-05-06. INSPECTIONS. Family boarding homes functioning within the purview of these regulations, or any premises proposed to be operated as a family boarding home shall be open to investigation and

inspection at any time by the social service board of North Dakota or its authorized agents.

History: Effective October 1, 1979.

General Authority
NDCC 15-59.3-06

Law Implemented
NDCC 15-59.3-07

75-03-05-07. RECORDS. All records which are maintained by the family boarding home care provider with respect to students receiving family boarding home care shall be deemed confidential and shall not be disclosed except:

1. In a judicial proceeding.
2. To officers of the law or agents of legally constituted boards or agencies.
3. To persons with a legitimate interest in the student's well-being.

History: Effective October 1, 1979.

General Authority
NDCC 15-59.3-06

Law Implemented
NDCC 15-59.3-07

75-03-05-08. STANDARDS FOR AFFIDAVIT OF COMPLIANCE. Applicants for a family boarding home registration certificate shall comply with the following standards, and shall certify that compliance by affidavit:

1. That the operators of the family boarding home:
 - a. Are of sufficient age and maturity to carry out the proper functions of providing family boarding home care.
 - b. Are mentally, physically, and emotionally able to provide adequate care for the students in their charge.
 - c. Have completed the self-administered health form assuring that, to the best of their knowledge, they are physically able to care for students and are free of any communicable diseases.
 - d. Will provide care to no more than four students, unless all students provided family boarding home care are related to each other.

- e. Will provide adequate and nutritious meals and other care as needed by the special education student during those hours the student is required to live away from the student's home because of educational needs.
 - f. Must certify that all milk served in the family boarding home is pasteurized or obtained from a dairy herd certified disease-free by the department of health.
 - g. Must certify that the water supply is from an approved municipal system or if from some other source, has been tested and approved by the department of health.
2. That the family boarding home:
- a. Is clean, reasonably neat and free from accumulation of dirt, rubbish, and other health hazards.
 - b. Has adequate heating, ventilation, and lighting facilities for the comfort and protection of the health of the students.
 - c. Has, before placement, received a statement documenting a fire inspection by the local fire chief or other qualified individual, or by the state fire marshal if the home is located in an area without an organized local fire department.
 - d. Has at least two doors that function for ingress and egress.
 - e. Has a separate bed for each student, except for instances where two students have the same family of origin, with no student six years of age or older sharing a bedroom with a student of the opposite sex. Triple bunk beds are not allowed.
 - f. Provides within the student's bedroom a window to the outside which can serve as an emergency exit. Basement and attic bedrooms must have a second means of egress accessible to the student using them.
 - g. Meets the city code applicable to family residential structures if within a city, or if not within a city, meets the code of the city within which the school the student attends is located.
3. That special provisions be met for family boarding home care provided in mobile homes. In addition to compliance with the above prescribed standards, any person desiring to provide family boarding home care in a mobile home shall:

- a. Have a qualified person inspect the furnace within a period of one month prior to application for a registration certificate and thereafter on an annual basis.
 - b. Provide a minimum of two doors at opposite ends of the home which are functional for ingress and egress.
 - c. Provide that rooms in which the students will be housed have adequate ventilation, lighting, and heat and at least one window in such rooms suitable for fire escape.
 - d. Have an electrician inspect the home within one month prior to the application for a family boarding home registration certificate.
 - e. Provide that the mobile home meets the standards established for mobile homes as prescribed in the rules and regulations of the American standards institute (ANSI A119.1 1969) as adopted by the state of North Dakota.
4. That family boarding home registrants shall attempt to consult with the parents of students in their charge regarding the methods that may be employed for maintaining proper discipline. Registrants may take reasonable disciplinary actions with respect to students in their charge for the purpose of maintaining proper discipline. Disciplinary methods employed shall be moderate and appropriate to the circumstances and shall not create a risk of emotional or physical harm.
 5. That the following records will be maintained by the family boarding home care provider:
 - a. The registration certificate for the family boarding home shall be kept in the premises to which it applies.
 - b. A copy of the current standards for family boarding homes shall be kept in the premises.
 - c. The following records shall be kept and maintained:
 - (1) The name of the student, home address, names of parents, and business and home addresses and telephone number where parents can be reached.
 - (2) A written statement from the parents authorizing emergency medical care.

(3) A daily record documenting all medications.

History: Effective October 1, 1979.

General Authority
NDCC 15-59.2-06

Law Implemented
NDCC 15-59.3-06