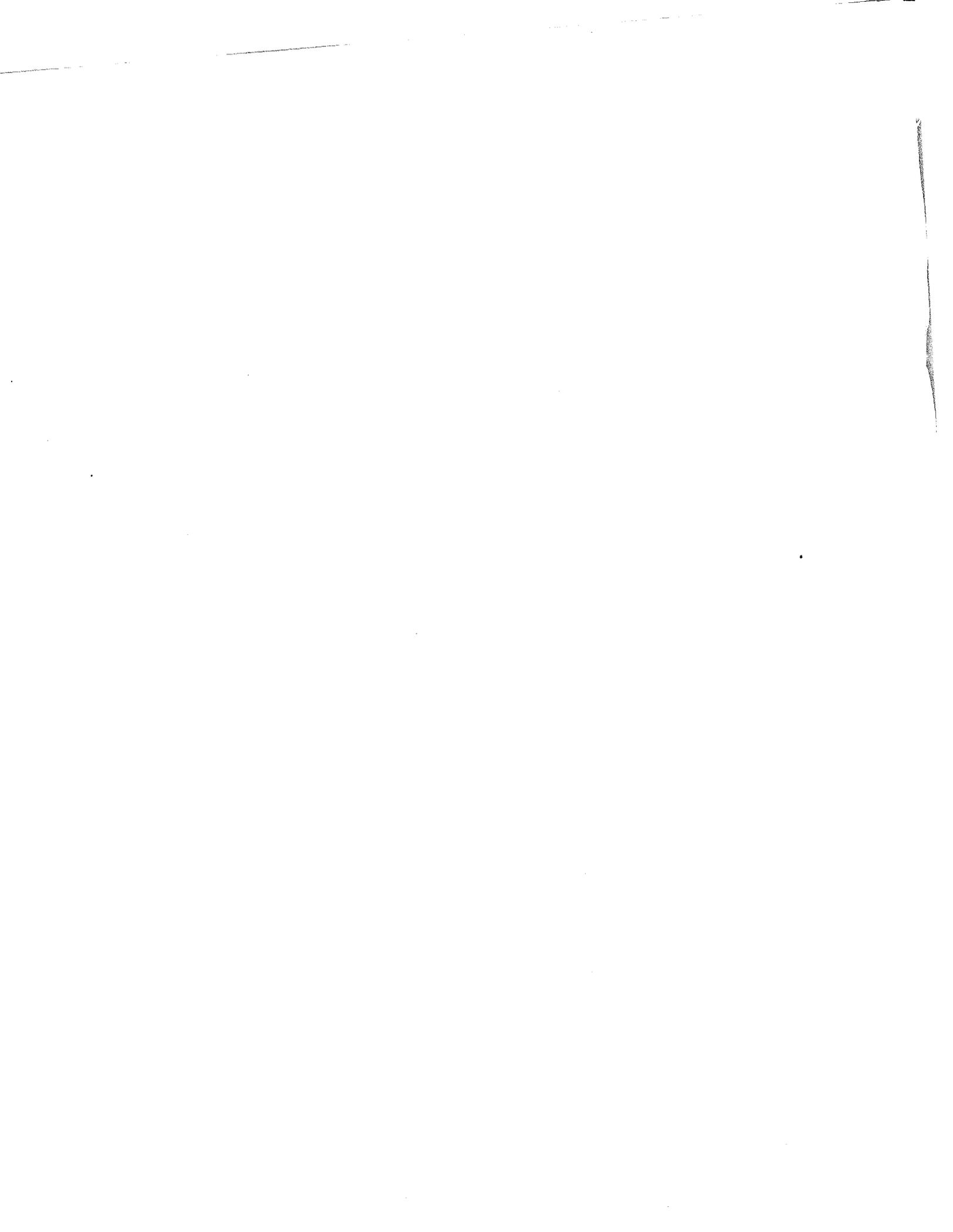


NORTH DAKOTA ADMINISTRATIVE CODE

Supplement 322

October 2006

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



TITLE 33
STATE DEPARTMENT OF HEALTH

OCTOBER 2006

CHAPTER 33-16-02.1

33-16-02.1-04. Definitions. The terms used in this chapter have the same meaning as in North Dakota Century Code chapter 61-28, except:

1. "Acute standard" means the one-hour average concentration does not exceed the listed concentration more than once every three years ~~on the average~~.
2. "Best management practices" are methods, measures, or procedures selected by the department to control nonpoint source pollution. Best management practices include, but are not limited to, structural and nonstructural measures and operation and maintenance procedures.
3. "Chronic standard" means the four-day average concentration does not exceed the listed concentration more than once every three years ~~on the average~~.
4. "Consecutive thirty-day average" is the average of samples taken during any consecutive thirty-day period. It is not a requirement for thirty consecutive daily samples.
5. "Department" means the North Dakota state department of health.
6. A standard defined as "dissolved" means the total quantity of a given material present in a filtered water sample, regardless of the form or nature of its occurrence.
7. "Pollution" means such contamination, or other alteration of the physical, chemical, or biological properties, of any waters of the state, including change in temperature, taste, color, turbidity, or odor. Pollution includes discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state that will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; domestic, commercial,

industrial, agricultural, recreational, or other legitimate beneficial uses; or livestock, wild animals, birds, fish, or other aquatic biota.

8. "Site-specific standards" mean water quality criteria developed to reflect local environmental conditions to protect the uses of a specific water body.
9. A standard defined as "total" means the entire quantity of a given material present in an unfiltered water sample regardless of the form or nature of its occurrence. This includes both dissolved and suspended forms of a substance, including the entire amount of the substance present as a constituent of the particulate material. Total recoverable is the quantity of a given material in an unfiltered aqueous sample following digestion by refluxing with hot dilute mineral acid.
10. "Water usage". The best usage for the waters shall be those uses determined to be the most consistent with present and potential uses in accordance with the economic and social development of the area. Present principal best uses are those defined in subdivisions a, b, c, and d, and e. These are not to be construed to be the only possible usages.
 - a. Municipal and domestic water. Waters suitable for use as a source of water supply for drinking and culinary purposes after treatment to a level approved by the department.
 - b. ~~Recreation, fishing, and wildlife~~ Fish and aquatic biota. Waters suitable for the propagation ~~or~~ and support of fish and other aquatic biota; and waters that will not adversely affect wildlife in the area, ~~and waters suitable for boating and swimming~~. ~~Natural high turbidities in some waters and physical characteristics of banks and streambeds of many streams are factors that limit their value for bathing~~. Low flows or natural physical and chemical conditions in some waters may limit their value for fish propagation or aquatic biota.
 - c. Recreation. Waters suitable for recreation where direct body contact is involved, such as bathing and swimming, and where secondary activities such as boating, fishing, and wading are involved. Natural high turbidities in some waters and physical characteristics of banks and streambeds of many streams are factors that limit their value for bathing.
 - d. Agricultural uses. Waters suitable for irrigation, stock watering, and other agricultural uses, but not suitable for use as a source of domestic supply for the farm unless satisfactory treatment is provided.

- d. e. Industrial water. Waters suitable for industrial purposes, including food processing, after treatment. Treatment may include that necessary for prevention of boiler scale and corrosion.

History: Effective June 1, 2001; amended effective October 1, 2006.

General Authority: NDCC 61-28-04, 61-28-05

Law Implemented: NDCC 23-33, 61-28

33-16-02.1-09. Surface water classifications, mixing zones, and numeric standards.

1. **Classifications.** Procedures for the classifications of streams and lakes of the state shall follow this subsection. Classifications of streams and lakes are listed in appendix I and appendix II, respectively.
 - a. **Class I streams.** The quality of the waters in this class shall be suitable for the propagation or protection, or both, of resident fish species and other aquatic biota and for swimming, boating, and other water recreation. The quality of the waters shall be suitable for irrigation, stock watering, and wildlife without injurious effects. After treatment consisting of coagulation, settling, filtration, and chlorination, or equivalent treatment processes, the water quality shall meet the bacteriological, physical, and chemical requirements of the department for municipal or domestic use.
 - b. **Class IA streams.** The quality of the waters in this class shall be the same as the quality of class I streams, except that treatment for municipal use may also require softening to meet the drinking water requirements of the department.
 - c. **Class II streams.** The quality of the waters in this class shall be the same as the quality of class I streams, except that additional treatment may be required to meet the drinking water requirements of the department. Streams in this classification may be intermittent in nature which would make these waters of limited value for beneficial uses such as municipal water, fish life, or irrigation, bathing, or swimming.
 - d. **Class III streams.** The quality of the waters in this class shall be suitable for agricultural and industrial uses ~~such as stock watering, irrigation, washing, and cooling. These streams.~~ Streams in this class generally have low average flows and, generally, with prolonged periods of no flow. They ~~During periods of no flow, they~~ are of limited ~~seasonal~~ value for ~~immersion~~ recreation; and fish life; and aquatic biota. The quality of these waters must be maintained to protect secondary contact recreation uses (e.g., wading), fish and aquatic biota, and aquatic biota wildlife uses.

- e. Wetlands. These water bodies, including isolated ponds, sloughs, and marshes, are to be considered waters of the state and will be protected under section 33-16-02-08.
- f. Lakes and reservoirs. The type of fishery a lake or reservoir may be capable of supporting is based on the lake's or reservoir's geophysical characteristics. ~~However, the~~ The capability of the a lake or reservoir to support a fishery may be affected by seasonal variations or climatic variability or other natural occurrences which may alter the lake physical and chemical characteristics of the lake or reservoir.

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

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

3. **Numeric standards.**

- a. Class I streams. Unless stated otherwise, maximum limits for class I streams are listed in table 1 and table 2.
- b. Class IA streams. The physical and chemical criteria shall be those for class I, with the following exceptions:

Substance or Characteristic	Maximum Limit
Chlorides (total)	175 mg/l (<u>30-day arithmetic average</u>)
Sodium	60% of total cations as mEq/l
Sulfate (total)	450 mg/l (<u>30-day arithmetic average</u>)

c. Class II streams. The physical and chemical criteria shall be those for class IA, with the following exceptions:

Substance or Characteristic	Maximum Limit
Chlorides (total)	250 mg/l (<u>30-day arithmetic average</u>)
pH	6.0-9.0 (<u>up to 10% of representative samples collected during any 3-year period may exceed this range provided that lethal conditions are avoided</u>)

d. Class III streams. The physical and chemical criteria shall be those for class II, with the following exceptions:

Substance or Characteristic	Maximum Limit
Sulfate (total)	750 mg/l (<u>30-day arithmetic average</u>)

e. Lakes and reservoirs.

- (1) The beneficial uses and parameter limitations designated for class I streams shall apply to all classified lakes or reservoirs. However, specific background studies and information may require that the department revise a standard for any specific parameter.
- (2) In addition, these nutrient parameters are guidelines for use as goals in any lake or reservoir improvement or maintenance program:

Parameter	Limit
NO ₃ as N	.25 mg/l
PO ₄ as P	.02 mg/l

- (3) The temperature standard for class I streams does not apply to Nelson Lake in Oliver County. The temperature of any

discharge to Nelson Lake shall not have an adverse effect on fish, aquatic life, biota, recreation, and wildlife, or Nelson Lake itself.

- (4) A numeric temperature standard of not greater than fifty-nine degrees Fahrenheit [15 degrees Celsius] shall be maintained in the hypolimnion of class I lakes and reservoirs during periods of thermal stratification.
- (5) The numeric dissolved oxygen standard of five mg/l as a daily minimum does not apply to the hypolimnion of class III and IV lakes and reservoirs during periods of thermal stratification.
- (6) Lake Sakakawea must maintain a minimum volume of water of five hundred thousand-acre feet [61674-hectare meters] that has a temperature of fifty-nine degrees Fahrenheit [15 degrees Celsius] or less and a dissolved oxygen concentration of not less than five mg/l.

History: Effective June 1, 2001; amended effective October 1, 2006.

General Authority: NDCC 61-28-04

Law Implemented: NDCC 23-33, 61-28

TABLE 1

MAXIMUM LIMITS FOR SUBSTANCES IN
OR CHARACTERISTICS OF CLASS I STREAMS

CAS No.	Substance or Characteristic	Maximum Limit
		Acute Standard
<u>7429905</u>	<u>Aluminum</u>	<u>750 ug/l</u>
		Chronic Standard
		<u>87 ug/l</u> <u>Where the pH is equal to or greater than 7.0, and the hardness is equal to or greater than 50 mg/l as CaCO₃ in the receiving water after mixing, the 87 ug/l chronic total recoverable aluminum criterion will not apply, and aluminum will be regulated based on compliance with the 750 ug/l acute total recoverable aluminum criterion.</u>
7446-41-7	Ammonia (Total as N)	<p>The one-hour average concentration of total ammonia (expressed as N in mg/l) does not exceed, more often than once every three years on the average, the numerical value given by the following formula:</p> $\frac{0.411}{1 + 10^{7.204-pH}} + \frac{58.4}{1 + 10^{pH-7.204}},$ <p>where salmonids are absent; or</p> $\frac{0.275}{1 + 10^{7.204-pH}} + \frac{39.0}{1 + 10^{pH-7.204}},$ <p>where salmonids are present.</p> <p>Chronic Standard</p> <p>The 30-day average concentration of total ammonia (expressed as N in mg/l) does not exceed, more often than once every three years on the average, the numerical value given by the following formula; and the highest 4-day average concentration of total ammonia within the 30-day averaging period does not exceed 2.5 times the numerical value given by the following formula:</p> $= \left(\frac{0.0577}{1 + 10^{7.688-pH}} + \frac{2.487}{1 + 10^{pH-7.688}} \right) \bullet CV;$ <p>where CV = 2.85, when T ≤ 14° C; or</p>

CAS No.	Substance or Characteristic	Maximum Limit
------------	-----------------------------------	---------------

$$CV = 1.45 - 10^{0.028 \cdot (25-T)}, \text{ when } T > 140^\circ \text{ C.}$$

Site-Specific Chronic Standard

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

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

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

where CV = 4.63, when T ≤ 7° C; or

$$CV = 1.45 - 10^{0.028 \cdot (25-T)}, \text{ when } T > 7^\circ \text{ C.}$$

7440-39-3	Barium (Total)	1.0 mg/l (<u>one-day arithmetic average</u>)
	Boron (Total)	.75 mg/l (<u>30-day arithmetic average</u>)
16887-00-6	Chlorides (Total)	100 mg/l (<u>30-day arithmetic average</u>)
7.782-50-5	Chlorine Residual (Total)	Acute .019 mg/l Chronic .011 mg/l
7782-44-7	Dissolved Oxygen	<u>not less than 5 mg/l as a daily minimum (up to 10% of representative samples collected during any 3-year period may be less than this value provided that lethal conditions are avoided)</u>

CAS No.	Substance or Characteristic	Maximum Limit
	Fecal Coliform ²	<u>200 fecal coliforms per 100 ml. Not to exceed 200 organisms per 100 ml as a geometric mean of representative samples collected during any 30-day consecutive period individually exceed 400 organisms per 100 ml. For assessment purposes, the 30-day consecutive period shall follow the calendar month. This standard shall apply only during the recreation season May 1 to September 30.</u>
	<u>E. coli</u> ²	<u>Not to exceed 126 organisms per 100 ml as a geometric mean of representative samples collected during any 30-day consecutive period, nor shall more than 10 percent of samples collected during any 30-day consecutive period individually exceed 409 organisms per 100 ml. For assessment purposes, the 30-day consecutive period shall follow the calendar month. This standard shall apply only during the recreation season May 1 to September 30.</u>
14797-55-8	Nitrates (N) (Diss.) ¹	<u>1.0 mg/l (up to 10% of samples may exceed)</u>
	pH	<u>7.0-9.0 (up to 10% of representative samples collected during any three-year period may exceed this range, provided that lethal conditions are avoided)</u>
32730	Phenols (Total)	0.3 mg/l (organoleptic criterion) <u>(one-day arithmetic average)</u>
7723-14-0	Phosphorus (P) (Total) [†]	<u>0.1 mg/l</u>
	Sodium Sulfates (Total as SO ₄)	<u>250 mg/l (30-day arithmetic average)</u>
	Temperature	Eighty-five degrees Fahrenheit [29.44 degrees Celsius]. The maximum increase shall not be greater than five degrees Fahrenheit [2.78 degrees Celsius] above natural background conditions.
	Combined radium 226 and radium 228 (Total)	<u>5 pCi/l (30-day arithmetic average)</u>

CAS No.	Substance or Characteristic	Maximum Limit
	Gross alpha particle activity, including radium 226, but excluding radon and uranium	15 pCi/l <u>(30-day arithmetic average)</u>

¹The ~~standards~~ standard for nitrates (N) and ~~phosphorus (P)~~ are is intended as an interim guideline ~~limits~~ limit. Since each stream or lake has unique characteristics which determine the levels of these constituents that will cause excessive plant growth (eutrophication), the department reserves the right to review ~~these standards~~ this standard after additional study and to set specific limitations on any waters of the state. However, in no case shall the ~~standard concentration~~ for nitrates (N) nitrate plus nitrite N exceed 10 mg/l for any waters used as a municipal or domestic drinking water supply.

²Where the fecal coliform or E. coli criteria, or both, are exceeded and there are natural sources, the criteria may be considered attained, provided there is reasonable basis for concluding that the indicator bacteria density attributable to anthropogenic sources is consistent with the level of water quality required by the criteria. This may be the situation, for example, in headwater streams that are minimally affected by anthropogenic activities.

TABLE 2
WATER QUALITY CRITERIA¹
PRIORITY POLLUTANTS (MICROGRAMS PER LITER)

CAS No.	Pollutant	Aquatic Life Value Classes I, IA, II, III		Human Health Value	
		Acute	Chronic	Classes I, IA, II ²	Class III ³
83-32-9	Acenaphthene			1200 <u>670</u>	2700 <u>990</u>
107-02-8	Acrolein			320 <u>190</u>	780 <u>290</u>
107-13-1	Acrylonitrile ⁴			0.059 <u>0.051</u>	0.60 <u>0.25</u>
71-43-2	Benzene ⁴			1.2 <u>2.2</u>	71 <u>51</u>
92-87-5	Benzidine ⁴			0.00012 <u>0.000086</u>	0.00054 <u>0.00020</u>
56-23-5	Carbon tetrachloride ⁴ (Tetrachloromethane)			0.25 <u>0.23</u>	4.4 <u>1.6</u>
108-90-7	Chlorobenzene (Monochlorobenzene)			100 ^Z	21000 <u>1,600</u>
120-82-1	1,2,4-Trichlorobenzene			70 ^Z <u>35</u>	940 <u>70</u>
118-74-1	Hexachlorobenzene ⁴			0.00075 <u>0.00028</u>	0.00077 <u>0.00029</u>
107-06-2	1,2-Dichloroethane ⁴			0.38	99 <u>37</u>
71-55-6	1,1,1-Trichloroethane			200 ^Z	
67-72-1	Hexachloroethane ⁴			1.9 <u>1.4</u>	8.9 <u>3.3</u>
79-00-5	1,1,2-Trichloroethane ⁴			0.81 <u>0.59</u>	42.0 <u>16</u>
79-34-5	1,1,2,2-Tetrachloroethane ⁴			0.17	11.0 <u>4.0</u>
111-44-4	Bis(2-chloroethyl) ether ⁴			0.031 <u>0.030</u>	1.40 <u>0.53</u>
91-58-7	2-Chloronaphthalene			1700 <u>1,000</u>	4300 <u>1,600</u>
88-06-2	2,4,6-Trichlorophenol ⁴			2.1 <u>1.4</u>	6.5 <u>2.4</u>
59-50-7	p-Chloro-m-cresol (4-Chloro-3-methylphenol)			3000	
67-66-3	Chloroform (HM) ⁴ (Trichloromethane)			5.7	470
95-57-8	2-Chlorophenol			120 <u>81</u>	400 <u>150</u>
95-50-1	1,2-Dichlorobenzene ⁷			600 <u>420</u>	17000 <u>1,300</u>
541-73-1	1,3-Dichlorobenzene			400 <u>320</u>	2600 <u>960</u>
106-46-7	1,4-Dichlorobenzene ⁷			75 <u>63</u>	2600 <u>190</u>
91-94-1	3,3'-Dichlorobenzidine ⁴			0.039 <u>0.021</u>	0.077 <u>0.028</u>
75-35-4	1,1-Dichloroethylene ⁴			0.057 <u>7</u> ^Z	3.2 <u>7,100</u>
156-60-5	1,2-trans-Dichloroethylene ⁷			100 ⁷	140000 <u>10,000</u>
120-83-2	2,4-Dichlorophenol			93 <u>77</u>	790 <u>290</u>
542-75-6	1,3-Dichloropropylene (1,3-Dichloropropene) (cis and trans isomers)			10 <u>0.34</u>	1700 <u>21</u>
78-87-5	1,2-Dichloropropane			52 <u>0.50</u>	39 <u>15</u>
105-67-9	2,4-Dimethylphenol			540 <u>380</u>	2300 <u>850</u>
121-14-2	2,4-Dinitrotoluene ⁴			0.11	9.1 <u>3.4</u>

CAS No.	Pollutant	Aquatic Life Value Classes I, IA, II, III		Human Health Value	
		Acute	Chronic	Classes I, IA, II ²	Class III ³
122-66-7	1,2-Diphenylhydrazine ⁴			0.040 <u>0.036</u>	0.54 <u>0.20</u>
160-41-4	Ethylbenzene ⁷			700 <u>530</u>	29000 <u>2,100</u>
206-44-0	Fluoranthene			300 <u>130</u>	370 <u>140</u>
39638-32-9	Bis(2-chloroisopropyl) ether			1400	170000 <u>65,000</u>
75-09-2	Methylene chloride (HM) ⁴ (Dichloromethane)			4.7 <u>4.6</u>	1000 <u>590</u>
74-83-9	Methyl bromide (HM) (Bromomethane)			48 <u>47</u>	4000 <u>1,500</u>
75-25-2	Bromoform (HM) ⁵ (Tribromomethane)			4.3	300 <u>140</u>
75-27-4	Dichlorobromomethane (HM) ⁵			0.56 <u>0.55</u>	48 <u>17</u>
124-48-1	Chlorodibromomethane (HM) ⁵			0.41 <u>0.40</u>	34 <u>13</u>
87-68-3	Hexachlorobutadiene ⁴			0.44	50 <u>18</u>
77-47-4	Hexachlorocyclopentadiene			50 ⁷ <u>40</u>	17000 <u>1,100</u>
78-59-1	Isophorone ⁴			36 <u>35</u>	2000 <u>960</u>
98-95-3	Nitrobenzene			17	1900 <u>690</u>
51-28-5	2,4-Dinitrophenol			70 <u>69</u>	14000 <u>5,300</u>
534-52-1	4,6-Dinitro-o-cresol (4,6-Dinitro-2-methylphenol)			13	705 <u>280</u>
62-75-9	N-Nitrosodimethylamine ⁴			0.00069	8.1 <u>3.0</u>
86-30-6	N-Nitrosodiphenylamine ⁴			5.0 <u>3.3</u>	16 <u>6.0</u>
621-64-7	N-Nitrosodi-n-propylamine ⁴			0.005	1.4 <u>0.51</u>
87-86-5	Pentachlorophenol	19 ^a	15 ^a	0.26 <u>0.27</u>	6.2 <u>3.0</u>
108-95-2	Phenol			21000	4000000 <u>1,700,000</u>
117-81-7	Bis(2-ethylhexyl)phthalate ⁴			1.8 <u>1.2</u>	5.9 <u>2.2</u>
85-68-7	Butyl benzyl phthalate			3000 <u>1,500</u>	5200 <u>1,900</u>
84-74-2	Di-n-butyl phthalate			2700 <u>2,000</u>	12000 <u>4,500</u>
84-66-2	Diethyl phthalate			23000 <u>17,000</u>	120000 <u>44,000</u>
131-11-3	Dimethyl phthalate			513000 <u>270,000</u>	2000000 <u>1,100,000</u>
56-55-3	Benzo(a)anthracene (PAH) ⁴ (1,2-Benzanthracene)			0.0044 <u>0.0038</u>	0.049 <u>0.018</u>
50-32-8	Benzo(a)pyrene (PAH) ⁴ (3,4-Benzopyrene)			0.0044 <u>0.0038</u>	0.049 <u>0.018</u>
205-99-2	Benzo(b)fluoranthene (PAH) ⁴ (3,4-Benzofluoranthene)			0.0044 <u>0.0038</u>	0.049 <u>0.018</u>
207-08-9	Benzo(k)fluoranthene (PAH) ⁴ (11,12-Benzofluoranthene)			0.0044 <u>0.0038</u>	0.049 <u>0.018</u>
218-01-9	Chrysene (PAH) ⁴			0.0044 <u>0.0038</u>	0.049 <u>0.018</u>
120-12-7	Anthracene (PAH) ⁵			9000 <u>8,300</u>	110000 <u>40,000</u>
86-73-7	Fluorene (PAH) ⁵			1300 <u>1,100</u>	14000 <u>5,300</u>
53-70-1	Dibenzo(a,h)anthracene (PAH) ⁴ (1,2,5,6-Dibenzanthracene)			0.0044 <u>0.0038</u>	0.049 <u>0.018</u>

CAS No.	Pollutant	Aquatic Life Value Classes I, IA, II, III		Human Health Value	
		Acute	Chronic	Classes I, IA, II ²	Class III ³
193-39-5	Indeno(1,2,3-cd)pyrene (PAH) ⁴			0.0044 <u>0.0038</u>	0.049 <u>0.018</u>
129-00-0	Pyrene (PAH) ⁵			960 <u>830</u>	11000 <u>4,000</u>
127-18-4	Tetrachloroethylene ⁴			0.8 <u>0.69</u>	8.9 <u>3.3</u>
108-88-3	Toluene			10007 <u>1,000</u> ⁷	200000 <u>15,000</u>
79-01-6	Trichloroethylene ⁴			2.7 <u>2.5</u>	81 <u>30</u>
75-01-4	Vinyl chloride ⁴ (Chloroethylene)			2 <u>0.025</u>	590 <u>2.4</u>
309-00-2	Aldrin ⁴	1.5		0.00013 <u>0.000049</u>	0.00014 <u>0.000050</u>
60-57-1	Dieldrin ⁴	1.25 <u>0.24</u>	0.56 <u>0.056</u>	0.00014 <u>0.000052</u>	0.00014 <u>0.000054</u>
57-74-9	Chlordane ⁴	1.2	0.0043	0.0021 <u>0.00080</u>	0.0022 <u>0.00081</u>
80-29-3	4,4'-DDT ⁴	0.55 ¹³	0.001 ¹³	0.00059 <u>0.00022</u>	0.00059 <u>0.00022</u>
75-55-9	4,4'-DDE ⁴			0.00059 <u>0.00022</u>	0.00059 <u>0.00022</u>
72-54-8	4,4'-DDD ⁴			0.00083 <u>0.00031</u>	0.00084 <u>0.00031</u>
115-29-7	alpha-Endosulfan	0.11 ¹²	0.056 ¹²	110 <u>62</u>	240 <u>89</u>
115-29-7	beta-Endosulfan	0.11 ¹²	0.05 <u>0.056</u> ¹²	110 <u>62</u>	240 <u>89</u>
1031-07-8	Endosulfan sulfate			110 <u>62</u>	240 <u>89</u>
72-20-8	Endrin	0.09	0.036	0.76 <u>0.059</u>	0.81 <u>0.060</u>
7421-93-4	Endrin aldehyde			0.76 <u>0.29</u>	0.81 <u>0.30</u>
76-44-8	Heptachlor ⁴	0.26	0.0038	0.00021 <u>0.000079</u>	0.00021 <u>0.000079</u>
1024-57-3	Heptachlor epoxide ⁴	0.26	0.0038	0.00010 <u>0.000039</u>	0.00011 <u>0.000039</u>
319-84-6	alpha-BHC ⁴ (Hexachlorocyclohexane-alpha)			0.0039 <u>0.0026</u>	0.013 <u>0.0049</u>
319-85-7	beta-BHC ⁴ (Hexachlorocyclohexane-beta)			0.014 <u>0.0091</u>	0.046 <u>0.017</u>
58-89-9	gamma-BHC (Lindane) ⁴ (Hexachlorocyclohexane-gamma)	0.95		0.019 <u>0.2</u> ⁷	0.063 <u>1.8</u>
319-86-8	delta-BHC ⁴ (Hexachlorocyclohexane-delta)				
1336-36-3	PCB 1242 (Arochlor 1242) ⁴		0.014 ¹¹	0.00017 <u>0.000064</u> ¹¹	0.00017 <u>0.000064</u> ¹¹
1336-36-3	PCB-1254 (Arochlor 1254) ⁴		0.014 ¹¹	0.00017 <u>0.000064</u> ¹¹	0.00017 <u>0.000064</u> ¹¹
1336-36-3	PCB-1221 (Arochlor 1221) ⁴		0.014 ¹¹	0.00017 <u>0.000064</u> ¹¹	0.00017 <u>0.000064</u> ¹¹
1336-36-3	PCB-1232 (Arochlor 1232) ⁴		0.014 ¹¹	0.00017 <u>0.000064</u> ¹¹	0.00017 <u>0.000064</u> ¹¹
1336-36-3	PCB-1248 (Arochlor 1248) ⁴		0.014 ¹¹	0.00017 <u>0.000064</u> ¹¹	0.00017 <u>0.000064</u> ¹¹
1336-36-3	PCB-1260 (Arochlor 1260) ⁴		0.014 ¹¹	0.00017 <u>0.000064</u> ¹¹	0.00017 <u>0.000064</u> ¹¹
1336-36-3	PCB-1016 (Arochlor 1016) ⁴		0.014 ¹¹	0.00017 <u>0.000064</u> ¹¹	0.00017 <u>0.000064</u> ¹¹
8001-35-2	Toxaphene ⁴	0.73	0.0002	0.00073 <u>0.00028</u>	0.00075 <u>0.00028</u>
7440-36-0	Antimony			6 <u>5.6</u>	4300 <u>640</u>
7440-38-2	Arsenic ⁷	340 ¹⁰	150 ¹⁰	50 <u>10</u> ⁷	
1332-21-4	Asbestos ⁴ ⁷			7,000,000 <u>f/l</u>	7000000 <u>f/l</u>

CAS No.	Pollutant	Aquatic Life Value Classes I, IA, II, III		Human Health Value	
		Acute	Chronic	Classes I, IA, II ²	Class III ³
7440-41-7	Beryllium ⁴			4 ⁷	
7440-43-9	Cadmium	4.5 ⁵ <u>2.1</u> ⁵	2.5 ⁵ <u>0.27</u> ⁵	5 ⁷	
7440-47-3	Chromium (III)	1800 ⁶	86 ⁶	100(total) ⁷	
	Chromium (VI)	16	11	100(total) ⁷	
7440-50-8	Copper	7.9 ⁵ <u>14.0</u> ⁵	9.3 ⁶	1000	
57-12-5	Cyanide (total)	22	5.2	200 ⁷ <u>140</u>	220000 <u>140</u>
7439-92-1	Lead	82 ⁶	3.2 ⁶	15 ⁷	
7439-97-6	Mercury	1.7	0.91 <u>0.012</u>	0.050	0.051
7440-02-0	Nickel	470 ⁶	52 ⁶	100 ⁷	4600 <u>4,200</u>
7782-49-2	Selenium	20	5	50 ⁷	
7440-22-4	Silver	4.1 ⁵ <u>3.8</u> ⁵			
7440-28-0	Thallium			1.7 <u>0.24</u>	6.2 <u>0.47</u>
7440-66-6	Zinc	120 ⁶	120 ⁶	9100 <u>7,400</u>	69000 <u>26,000</u>
1746-01-6	Dioxin (2,3,7,8-TCDD) ⁴			0.000000013 <u>5.0E-9</u>	0.000000014 <u>5.1E-9</u>
15972-60-8	Alachlor			2 ⁷	
1912-24-9	Atrazine			3 ⁷	
1563-66-2	Carbofuran			40 ⁷	
94-75-7	2,4-D			70 ⁷	
75-99-0	Dalapon			200 ⁷	
103-23-1	Di(2-ethylhexyl)adipate			400 ⁷	
<u>333-41-5</u>	<u>Diazinon</u>	<u>0.17</u>	<u>0.17</u>		
<u>84852-15-3</u>	<u>Nonylphenol (Isomer mixture)</u> ¹⁴	<u>28</u>	<u>6.6</u>		
96-12-8	Dibromochloropropane			0.2 ⁷	
156-59-2	Dichloroethylene (cis-1,2-)			70 ⁷	
88-85-7	Dinoseb			7 ⁷	
85-00-7	Diquat			20 ⁷	
145-73-3	Endothall			100 ⁷	
106-93-4	Ethylene dibromide (EDB)			0.05 ⁷	
107-83-6	Glyphosate			700 ⁷	
72-43-5	Methoxychlor			40 ⁷	
23135-22-0	Oxamyl (Vydate)			200 ⁷	
1918-02-1	Picloram			500 ⁷	
122-34-9	Simazine			4 ⁷	
100-42-5	Styrene			100 ⁷	
1330-20-7	Xylenes			10,000 ⁷	
7782-41-4	Fluoride			4,000 ⁷	

CAS No.	Pollutant	Aquatic Life Value Classes I, IA, II, III		Human Health Value	
		Acute	Chronic	Classes I, IA, II ²	Class III ³
14797-65-0	Nitrite			1,000 ⁷	
12587-47-2	Beta/photon emitters			4 mrem/yr ⁷	
<u>7440-61-1</u>	<u>Uranium</u>			<u>30⁷</u>	
<u>15541-45-4</u>	<u>Bromate</u>			<u>10⁷</u>	
	<u>Chlorite</u>			<u>1,000⁷</u>	
	<u>Halocetic acids¹⁵</u>			<u>60⁷</u>	

CAS No. Chemical Abstracts Service Registry Number

- 1 Except for the aquatic life values for metals, the values given in this appendix refer to the total (dissolved plus suspended) amount of each substance. For the aquatic life values for metals, the values refer to the total recoverable method for ambient metals analyses.
- 2 Based on two routes of exposure - ingestion of contaminated aquatic organisms and drinking water.
- 3 Based on one route of exposure - ingestion of contaminated aquatic organisms only.
- 4 Substance classified as a carcinogen, with the value based on an incremental risk of one additional instance of cancer in one million persons.
- 5 Chemicals which are not individually classified as carcinogens but which are contained within a class of chemicals, with carcinogenicity as the basis for the criteria derivation for that class of chemicals; an individual carcinogenicity assessment for these chemicals is pending.
- 6 Hardness dependent criteria. Value given is an example only and is based on a CaCO₃ hardness of 100 mg/l. Criteria for each case must be calculated using the following formula:

$$CMC = \exp (ma [\ln (\text{hardness})] + ba)$$

	ma	ba
Cadmium	1.128 <u>1.0166</u>	-3.6867 <u>-3.924</u>
Copper	0.9422	-1.700
Chromium (III)	0.8190	3.7256
Lead	1.273	-1.460
Nickel	0.8460	2.255
Silver	1.72	-6.52 <u>-6.59</u>
Zinc	0.8473	0.884

CMC = Criterion Continuous Concentration (acute exposure value)

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

$$CCC = \exp (mc [\ln (\text{hardness})] + bc)$$

	mc	bc
Cadmium	0.7852 <u>0.7409</u>	-2.715 <u>-4.719</u>
Copper	0.8545	-1.702
Chromium	0.8190	0.6848
Lead	1.273	-4.705

Nickel	0.8460	0.0584
Silver	—	—
Zinc	0.8473	0.884

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

7 Safe Drinking Water Act (MCL).

8 ~~pH dependent criteria. Value given is an example only and is based on a pH of 7.8. Criteria for each case must be calculated using the following formula: Note 8 intentionally omitted.~~

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

$$\text{CMC} = \exp [1.005 (\text{pH}) - 4.869] \quad \text{CCC} = \exp [1.005 (\text{pH}) - 5.134]$$

10 This criterion applies to total arsenic.

11 This criterion applies to total PCBs (i.e., the sum of all congener or all isomer or homolog or Arochlor analyses).

12 This criterion applies to the sum of alpha-endosulfan and beta-endosulfan.

13 This criterion applies to DDT and its metabolites (i.e., the total concentration of DDT and its metabolites should not exceed this value).

14 The nonylphenol criteria address CAS numbers 84852-15-3 and 25154-52-3.

15 The criterion is for a total measurement of 5 haloacetic acids, dichloroacetic acid, trichloroacetic acid, monochloroacetic acid, bromoacetic acid, and dibromoacetic acid.

33-16-02.1-11. Discharge of wastes. On-surface discharges. The following are general requirements for all waste discharges or chemical additions:

1. No untreated domestic sewage shall be discharged into the waters of the state.
2. No untreated industrial wastes or other wastes which contain substances or organisms which may endanger public health or degrade the water quality of water usage shall be discharged into the waters of the state.
3. ~~The degree of treatment for municipal wastes shall be that required by the department and shall be based on the following:~~
 - a. ~~Wastes are to receive a minimum of secondary treatment or equivalent which shall be equal to at least an eighty-five percent removal of five-day biochemical oxygen demand, or shall meet the effluent standards noted in subdivision c. The more restrictive requirements shall apply.~~

b. ~~Wastes shall be effectively disinfected before discharge into state waters if such discharges cause violation of the fecal coliform criteria as set forth in these standards.~~

c. ~~No waste discharge shall be permitted unless the effluent meets the following criteria:~~

(1) ~~Five-day biochemical oxygen demand: 25 mg/l consecutive thirty-day average.~~

(2) ~~Suspended solids: 30 mg/l consecutive thirty-day average.~~

(3) ~~Fecal coliform: Fecal coliform not to exceed 200 colonies/100 ml consecutive thirty-day geometric mean.~~

~~In certain instances, external circumstances or specific uses of the receiving waters make either attainment or application of the suspended solids or fecal coliform limitations an ineffective means of controlling water quality. For this reason, the department reserves the right to evaluate the application of these limitations on a case-by-case basis.~~

(4) ~~pH: 6.0-9.0.~~

~~Natural ground waters and surface waters in some parts of the state presently used for water supplies with or without treatment are basic and the stabilization process of wastewater treatment in lagoon systems can result in more alkaline (increased pH) water. Discharges from waste treatment facilities may exceed the upper pH limit due to these uncontrollable properties. Approval to discharge may be granted providing the pH of the receiving water is not violated.~~

d. ~~The department may require treatment in addition to that listed in this section if such waste discharges, made during low stream flows, cause violations of stream water quality standards or have a detrimental effect on the beneficial uses of the receiving waters.~~

4. ~~Industrial waste effluents shall meet all parameters of quality as set forth under the North Dakota pollutant discharge elimination system and shall not violate North Dakota water quality standards.~~

5. The department must be notified at least twenty days prior to the application of any herbicide or pesticide to surface waters of the state for control of aquatic pests. Only certified applicators are allowed to apply chemicals. The notification must include the following information:

- a. Chemical name and composition.
 - b. Map which identifies the area of application and number of square feet aerial extent (e.g., acres or square feet).
 - c. A list of target species of aquatic biota the applicant desires to control.
 - d. The calculated concentration of the active ingredient in surface waters immediately after application.
 - e. Name, address, and telephone number of the certified applicator.
- ~~6-~~ 4. Any spill or discharge of waste which causes or is likely to cause pollution of waters of the state must be reported immediately. The owner, operator, or person responsible for a spill or discharge must notify the department as soon as possible (701-328-5210) or the North Dakota hazardous materials emergency assistance and spill reporting number (1-800-472-2121) and provide all relevant information about the spill. Depending on the severity of the spill or accidental discharge, the department may require the owner or operator to:
- a. Take immediate remedial measures;
 - b. Determine the extent of pollution to waters of the state;
 - c. Provide alternate water sources to water users impacted by the spill or accidental discharge; or
 - d. Any other actions necessary to comply with this chapter.

History: Effective June 1, 2001; amended effective October 1, 2006.

General Authority: NDCC 61-28-04

Law Implemented: NDCC 23-33, 61-28

APPENDIX I

STREAM CLASSIFICATIONS

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

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

RIVER BASINS, SUBBASINS, AND TRIBUTARIES

CLASSIFICATION

Des Lacs River	II
Willow Creek	II
Deep River	III
Mauvais Coulee	I
James River	IA
Pipestem	IA
Cottonwood Creek	II
Beaver Creek	II
Elm River	II
Maple River	II
Bois de Sioux	I
Red River	I
Wild Rice River	II
Antelope Creek	III
Sheyenne River	IA
Baldhill Creek	II
Maple River	II
Rush River	III
Elm River	II
Goose River	IA
Turtle River	II
Forest River	II
North Branch	III
Park River	II
North Branch	III

RIVER BASINS, SUBBASINS, AND TRIBUTARIES

CLASSIFICATION

South Branch	II
Middle Branch	III
Cart Creek	III
Pembina River	IA
Tongue River	II

APPENDIX II

LAKE AND RESERVOIR CLASSIFICATION

Lakes and reservoirs are classified according to the water characteristics which are to be maintained in the specified lakes and reservoirs. The beneficial water uses and parameter limitations designated for Class I streams shall apply to all classified lakes and reservoirs.

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
Adams	Mirror <u>Lake</u>	3
Adams	N. Lemmon <u>Lake</u>	1
Barnes	<u>Lake</u> Ashtabula	3
Barnes	Heinze	3
Barnes	Moon <u>Lake</u>	2
Barnes	Clausen Spring <u>Springs</u>	4 3
Benson	Wood Lake	2
Benson	Graves	3
Benson	Reeves	3
Bottineau	<u>Lake</u> Metigoshe	2
Bottineau	Long Lake	2
Bottineau	Pelican <u>Lake</u>	3
Bottineau	Carbury <u>Dam</u>	2
Bottineau	Cassidy <u>Lake</u>	3 4
Bottineau	Strawberry <u>Lake</u>	2
Bowman	Bowman-Haley <u>Dam</u>	3

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
Bowman	Gascoyne <u>Lake</u>	3
Bowman	Kalina <u>Dam</u>	3
<u>Bowman</u>	<u>Lutz Dam</u>	<u>2</u>
Bowman	Spring Lake	3
Burke	Powers Lake	3
Burke	Short Creek <u>Dam</u>	2
Burke	Smishek <u>Dam</u>	2
Burke	Truax Mine	4
Burke	Northgate <u>Dam</u>	2
Burke	Bowbells Mine	4
Burleigh	McDowell Dam	3
<u>Burleigh</u>	<u>Mitchell Lake</u>	<u>3</u>
Burleigh	New Johns Lake	2
Cass	Casselton Reservoir	3
Cass	Hunter <u>Dam</u>	3
Cass	Brewer Lake	2
Cavalier	Mt. Carmel <u>Dam</u>	2
Dickey	Moore's Lake	4 <u>3</u>
Dickey	Pheasant <u>Lake</u>	3

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
Dickey	Wilson Dam	3
<u>Divide</u>	<u>Baukol-Noonan Dam</u>	<u>2</u>
<u>Divide</u>	<u>Baukol-Noonan East Mine Pond</u>	<u>2</u>
Divide	Skjermo <u>Dam</u>	2
Dunn	Lake Ilo	3
<u>Eddy</u>	<u>Battle Lake</u>	<u>3</u>
Eddy	Warsing Dam	2 <u>3</u>
Emmons	Braddock Dam	3
Emmons	Nieuwsma Dam	2
Emmons	Rice Lake	4 <u>3</u>
Emmons	Welk Dam	3
Foster	Juanita <u>Lake</u>	3
Golden Valley	Camel Hump <u>Dam</u>	1
Golden Valley	Odland Dam	3
Golden Valley	Williams Creek	4
Grand Forks	Fordville <u>Dam</u>	2
Grand Forks	Kolding <u>Dam</u>	2 <u>3</u>
Grand Forks	Larimore <u>Dam</u>	2
Grant	<u>Heart Butte Dam</u> <u>(Lake Tschida)</u>	2

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

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
Kidder	Lake Williams	2 <u>3</u>
Kidder	Round Lake	2
LaMoure	Hein.-Martin <u>Heinrich-Martin Dam</u>	2 <u>3</u>
LaMoure	Kalmbach <u>Lake</u>	4 <u>3</u>
LaMoure	Kulm-Edgeley <u>Dam</u>	2 <u>3</u>
LaMoure	Cottonwood	4
LaMoure	Lake LaMoure	2 <u>3</u>
<u>LaMoure</u>	<u>Lehr Dam</u>	<u>3</u>
<u>LaMoure</u>	<u>Limesand-Seefeldt Dam</u>	<u>3</u>
LaMoure	Schleht-Thom <u>Schlecht-Thom Dam</u>	2 <u>3</u>
LaMoure	Schleht-Weix <u>Schlecht-Weix Dam</u>	3
Logan	Beaver Lake	3
Logan	Mundt Lake	2 <u>3</u>
Logan	Rudolph Lake	4 <u>3</u>
McHenry	Cottonwood <u>Lake</u>	3
McHenry	George Lake	2 <u>3</u>
McHenry	Round Lake	3
McHenry	Buffalo Lodge <u>Lake</u>	3

COUNTY	LAKE	CLASSIFICATION
McIntosh	Blumhardt <u>Dam</u>	4 <u>2</u>
McIntosh	Clear Lake	2 <u>3</u>
McIntosh	Coldwater <u>Lake</u>	2 <u>3</u>
<u>McIntosh</u>	<u>Dry Lake</u>	<u>2</u>
McIntosh	Green Lake	2
McIntosh	Lake Hoskins	2 <u>3</u>
McKenzie	Arnegard Dam	4
<u>McKenzie</u>	<u>Leland Dam</u>	<u>2</u>
McKenzie	Sather Dam	2
McLean	Brush Lake	3
McLean	Crooked Lake	2 <u>3</u>
McLean	Custer Mine <u>Pond</u>	4 <u>2</u>
McLean	E: <u>East</u> Park Lake	2
McLean	<u>Lake</u> Audubon	2
McLean	<u>Lake</u> Brekken	2
McLean	<u>Lake</u> Holmes	2
McLean	Lightning <u>Lake</u>	2 <u>1</u>
McLean	Long Lake	4
McLean	Riv: <u>Riverdale</u> Spillway <u>Lake</u>	1

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
McLean	Strawberry <u>Lake</u>	3
McLean	W. <u>West Park Lake</u>	2
<u>Mercer</u>	<u>Harmony Lake</u>	<u>3</u>
Morton	Crown Butte <u>Dam</u>	3
Morton	Danzig <u>Dam</u>	3
Morton	Fish Creek <u>Dam</u>	1
Morton	Nygren <u>Dam</u>	3 <u>2</u>
Morton	Sweetbriar <u>Dam</u>	3 <u>2</u>
Mountrail	Clearwater <u>Lake</u>	3
<u>Mountrail</u>	<u>Stanley City Pond</u>	<u>3</u>
Mountrail	Stanley Reservoir	3
Mountrail	White Earth <u>Dam</u>	2
Nelson	McVile Dam	4 <u>2</u>
Nelson	Tolna Dam	2
Nelson	Whitman Dam	4 <u>2</u>
Oliver	E. <u>East Arroda Lake</u>	4 <u>2</u>
Oliver	Nelson Lake	3
Oliver	Van Oosting	3
Oliver	M. Mosbrucker	2
Oliver	A. Mosbrucker	4

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
Oliver	W. <u>West</u> Arroda Lake	4 <u>2</u>
Pembina	Renwick Dam	2 <u>3</u>
Pierce	Balta Dam	2 <u>3</u>
Pierce	Buffalo Lake	2 <u>3</u>
Ramsey	Cavanaugh <u>Lake</u>	3
Ramsey	Devils Lake	3 <u>2</u>
Ransom	Dead Colt Creek <u>Dam</u>	3
Renville	Lake Darling	2
Richland	Lake Elsie	2 <u>3</u>
Richland	Mooreton Pond	2 <u>3</u>
Rolette	Belcourt <u>Lake</u>	2
Rolette	Carpenter <u>Lake</u>	2
Rolette	Dion Lake	2
Rolette	Gordon <u>Lake</u>	2
Rolette	Gravel Lake	4 <u>2</u>
Rolette	Hooker Lake	4 <u>2</u>
<u>Rolette</u>	<u>Island Lake</u>	<u>3</u>
<u>Rolette</u>	<u>Jensen Lake</u>	<u>3</u>
Rolette	School Section <u>Lake</u>	2

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
Rolette	Upsilon <u>Lake</u>	3 <u>2</u>
Rolette	Shutte Lake	2
Sargent	Alkali Lake	3
Sargent	Buffalo Lake	4 <u>3</u>
Sargent	<u>Lake</u> Tewaukon	3
Sargent	Silver Lake	2 <u>3</u>
Sargent	Sprague Lake	3
Sheridan	Hecker <u>Lake</u>	2
Sheridan	S. South McClusky <u>Lake</u> (<u>Hoffer Lake</u>)	2
Sioux	Froelich <u>Dam</u>	2
Slope	Cedar Lake	3
Slope	Davis Dam	4 <u>2</u>
Slope	Hamann Dam	4
Slope	Stewart Lake	3
Stark	Belfield Pond	3 <u>1</u>
Stark	Dickinson Dike	2 <u>1</u>
Stark	Patterson <u>Lake</u>	3
Steele	<u>North</u> Golden Lake	3
Steele	N. North Tobiason <u>Lake</u>	3

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
Steele	N. <u>South Golden Lake</u>	3
Stutsman	Arrowwood <u>Lake</u>	4
<u>Stutsman</u>	<u>Bader Lake</u>	<u>3</u>
Stutsman	Barnes Lake	3
Stutsman	Clark Lake	3
<u>Stutsman</u>	<u>Crystal Springs</u>	<u>3</u>
<u>Stutsman</u>	<u>Hehn-Schaffer Lake</u>	<u>3</u>
Stutsman	Jamestown Reservoir	2 <u>3</u>
Stutsman	Jim Lake	3 <u>4</u>
Stutsman	Spiritwood <u>Lake</u>	2 <u>3</u>
<u>Stutsman</u>	<u>Krapp Dam</u>	2
Stutsman	Pipestem Reservoir	3
Towner	Armourdale <u>Dam</u>	2
<u>Towner</u>	<u>Bisbee Dam</u>	<u>2</u>
Walsh	Bylin Dam	2 <u>3</u>
Walsh	Homme Dam	2 <u>3</u>
Walsh	Matejcek <u>Dam</u>	4 <u>3</u>
<u>Ward</u>	<u>Hiddenwood Lake</u>	<u>3</u>
<u>Ward</u>	<u>Makoti Lake</u>	<u>4</u>

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
Ward	<u>Nelson-Carlson North-Carlson Lake</u>	2 <u>3</u>
Ward	Rice Lake	2 <u>3</u>
Ward	<u>Velva Sptsm. Sportsmans Pond</u>	1
Wells	Harvey Dam	3
Wells	<u>Lake Hiawatha (Sykeston Dam)</u>	4
Williams	<u>Blacktail Dam</u>	3
Williams	<u>Cottonwood Lake</u>	3
<u>Williams</u>	<u>East Spring Lake Pond</u>	<u>3</u>
Williams	<u>Epp-Springbrook Epping-Springbrook Dam</u>	2 <u>3</u>
Williams	<u>Iverson Dam</u>	2
<u>Williams</u>	<u>Kettle Lake</u>	<u>2</u>
Williams	<u>Kota-Ray Dam</u>	1
Williams	<u>McCloud McCleod (Ray) Reservoir</u>	3
Williams	<u>McGregor Dam</u>	1
Williams	<u>Tioga Reservoir Dam</u>	2 <u>3</u>
<u>Williams</u>	<u>Trenton Lake</u>	<u>2</u>
<u>Williams</u>	<u>West Spring Lake Pond</u>	<u>3</u>

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
<u>Williams</u>	<u>Williston Park</u>	4
	<u>Lake Oahe</u>	1
	<u>Lake Sakakawea</u>	1

APPENDIX III
MIXING ZONE AND DILUTION POLICY
AND
IMPLEMENTATION PROCEDURE

PURPOSE

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

MIXING ZONES

Where dilution is available and the discharge does not mix at a near instantaneous and complete rate with the receiving water (incomplete mixing), an appropriate mixing zone may be designated. In addition, a mixing zone may only be designated if it is not possible to achieve chemical-specific standards and whole effluent toxicity objectives at the end-of-pipe with no allowance for dilution. The size and shape of a mixing zone will be determined on a case-by-case basis. At a maximum, mixing zones for streams and rivers shall not exceed one-half the cross-sectional area or a length 10 times the stream width at critical low flows, whichever is more limiting. Also, at a maximum, mixing zones in lakes shall not exceed 5 percent of lake surface area or 200 feet in radius, whichever is more limiting. Individual mixing zones may be limited or denied in consideration of designated beneficial uses or presence of the following concerns in the area affected by the discharge:

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

Within the mixing zone designated for a particular pollutant, certain numeric water quality criteria for that substance may not apply. However, all mixing zones shall

meet the general conditions set forth in Section 33-16-02-08 of the State Water Quality Standards.

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

DILUTION ALLOWANCES

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

Stream Flows

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

Effluent Flows

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

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

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

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

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

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

OTHER CONSIDERATIONS

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

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

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

The discharge will be consistent with the Antidegradation Procedure.

IMPLEMENTATION PROCEDURE

This procedure describes how dilution and mixing of point source discharges with receiving waters will be addressed in developing discharge limitations for point source discharges. For the purposes of this procedure, a mixing zone is defined as a designated area or volume of water surrounding or downstream of a point

source discharge where the discharge is progressively diluted by the receiving water and numerical water quality criteria may not apply. Based on site-specific considerations, such a mixing zone may be designated in the context of an individual permit decision. Discharges may also be provided an allowance for dilution where it is determined that the discharge mixes with the receiving water in near instantaneous and complete fashion. Such mixing zones and allowances for dilution will be granted on a parameter-by-parameter and criterion-by-criterion basis as necessary to fully protect existing and designated uses.

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

Step 1 - No Dilution Available During Critical Conditions

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

Step 2 - Dilution Categorically Prohibited for Wetland Discharges

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

Step 3 - Procedure for Certain Minor POTWs

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

For minor POTWs that qualify for this procedure and discharge to lakes, the allowance for dilution for chemical-specific and chronic WET limits will be determined on a case-by-case basis. Dilution up to 19:1 (5 percent effluent) may be provided.

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

Step 4 - Site-Specific Risk Considerations

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

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

Step 5 - Complete Mix Procedures

For point source discharges to rivers/streams where available data are adequate to support a conclusion that there is near instantaneous and complete mixing of the discharge with the receiving water (complete mix) the full critical low flow or a portion thereof may be provided as dilution for chemical-specific and WET limitations. Such determinations of complete mixing will be made on a case-by-case basis using best professional judgement. Presence of an effluent diffuser that covers the entire river/stream width at critical low flow will generally be assumed to provide complete mixing. Also, where the mean daily flow of the discharge exceeds the chronic low stream flow of the receiving water, complete mixing will generally be assumed. In addition, where the mean daily flow of the discharge is less than or equal to the chronic low flow of the receiving water, it will generally be assumed that complete mixing does not occur unless otherwise demonstrated by the permittee. Demonstrations for complete mixing should be consistent with the study plan developed in cooperation with the states/tribes and EPA Region VIII. Near instantaneous and complete mixing is defined as no more than a 10 percent difference in bank-to-bank concentrations within a longitudinal distance not greater than two river/stream widths. For controlled discharges (lagoon facilities), the test of near instantaneous and complete mixing will be made using the expected rate of effluent discharge and the lowest upstream flow expected to occur during the period of discharge.

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

Stream Flows

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

Effluent Flows

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

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

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

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

Step 6 - Incomplete Mix Procedures

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

- Lakes: The ZID volume shall not exceed 10 percent of the volume of the chronic mixing zone.
- Rivers and Streams: The ZID shall not exceed 10 percent of the chronic mixing zone volume or flow, nor shall the ZID exceed a maximum downstream length of 100 feet, whichever is more restrictive.

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

Default Method

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

Stream/River Dischargers: Dilution calculation which uses up to 10 percent of the critical low flow for chronic aquatic life limits or human health limits. However, this allowance may be adjusted downward on a case-by-case basis depending upon relevant site-specific information, designed and existing uses of the segment, and especially the uses of the segment portion affected by the discharge.

Lake/Reservoir Dischargers: Dilution up to 4:1 ratio (20 percent effluent) may be provided for chronic aquatic life analyses or human health analyses. However, this allowance may be adjusted downward on a case-by-case basis depending upon discharge flow, lake size, lake flushing potential, designated and existing uses of the lake, and uses of the lake portion affected by the discharge.

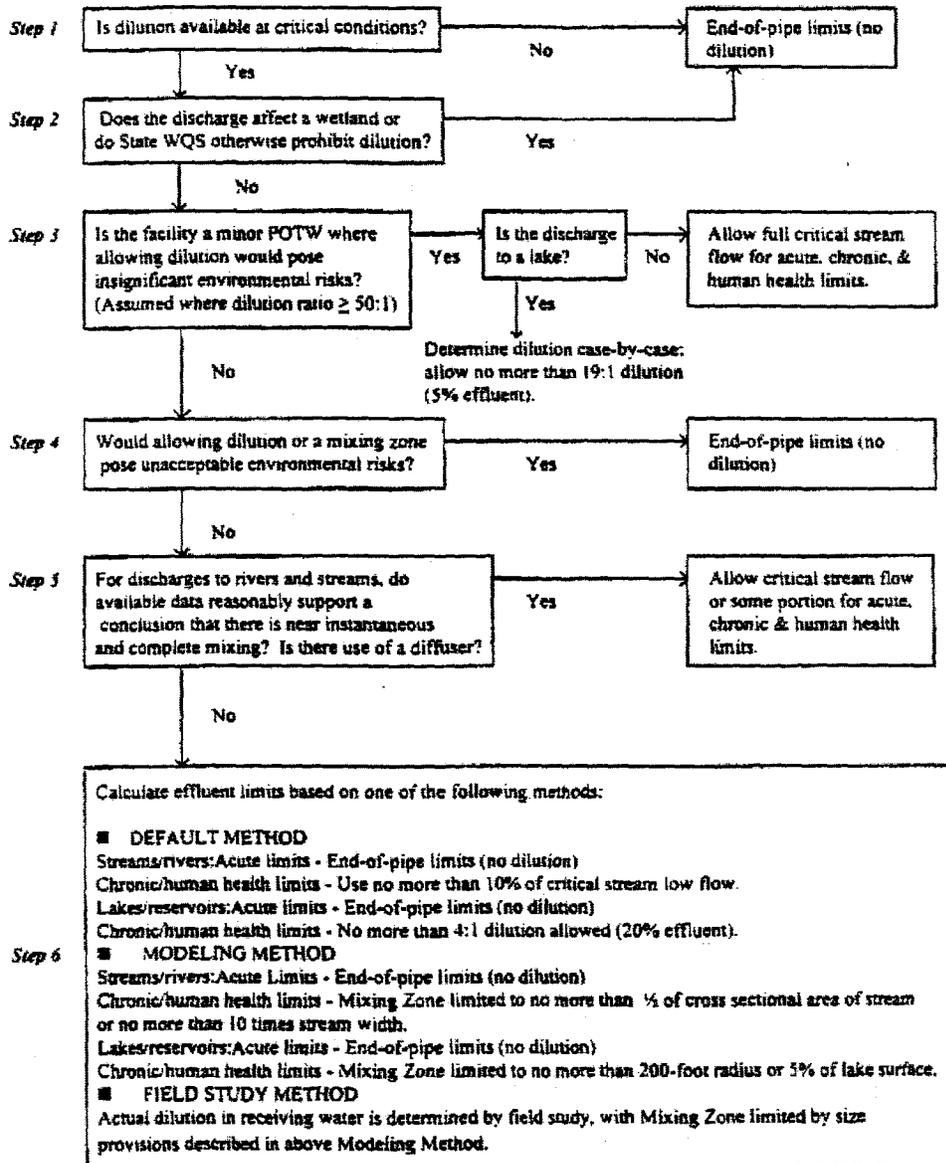
Modeling Method

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

Field Study Method

Field studies which document the actual mixing characteristics in the receiving water are used to determine the dilution flow that will allow mixing zone size limits to be achieved at the critical low flow. For the purposes of field studies, "near instantaneous and complete mixing" is operationally defined as no more than a 10 percent difference in bank-to-bank concentrations within a longitudinal distance not greater than two stream/river widths.

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



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

APPENDIX IV

NORTH DAKOTA ANTIDegradation PROCEDURE

I. INTRODUCTION

This antidegradation implementation procedure delineates the process that will be followed by the North Dakota State Department of Health for implementing the antidegradation policy found in the Standards of Water Quality for the State of North Dakota, Rule 33-16-02.

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

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

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

requirements necessary to protect the existing uses and, where appropriate, recommend reclassification of the segment.

III. ANTIDegradation REVIEW PROCEDURE

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

In conducting an antidegradation review, the Division of Water Quality will sequentially apply the following steps:

- A. Determine which level of antidegradation applies.
- B. Determine whether authorizing the proposed regulated activity is consistent with antidegradation requirements.
- C. Review existing water quality data and other information submitted by the project applicant.
- D. Determine if additional information or assessment is necessary to make a decision.
- E. A preliminary decision is made by the department and subsequently distributed for public participation and intergovernmental coordination.

: The content of public notices will be determined case by case. In preparing a public notice, the department may address: a) the department's preliminary antidegradation review conclusions; b) a request for public input on particular aspects of the antidegradation review that might be improved based on public input (e.g., existing uses of a segment that needs to be protected); c) notice of the availability of the antidegradation review worksheet; d) notice of the availability of general information regarding the state antidegradation program; and e) a reference to the state antidegradation policy.

: The antidegradation review findings will be available for public comment; however, publication of a separate notice for purposes of antidegradation is not necessary. For example, the antidegradation preliminary findings may be included in the public notice issued for purposes of an NDPDES permit or CWA § 401 certification.

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

F. Comments are considered.

G. The department determines if the change in quality is necessary to accommodate important economic or social development.

H. The department makes a final decision.

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

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

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

Category 3: Highest level of protection; Outstanding State Resource Waters.

Procedures for Category 1 Waters

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

- Proposed activities that would lower the ambient quality in a water body of any parameter by more than 15 percent, reduce the available assimilative capacity by more than 15 percent, or increase permitted pollutant loadings to a water body by more than 15 percent will be deemed to have significant effects.

- The department will identify and eliminate from further review those proposed activities that will have no significant effect on water quality or beneficial uses. Category 1 reviews will be conducted where significant effects are projected for one or more water quality parameters. Findings of significant effects may be based on the following factors: a) percent change in ambient concentrations predicted at the appropriate conditions; b) percent change in loadings for the individual discharge or to the segment from all discharges; c) reduction in available assimilative capacity; d) nature, persistence, and potential effects of the parameter; e) potential for cumulative effects; f) predicted impacts to aquatic biota; and g) degree of confidence in any modeling techniques utilized.

- The applicant may be required to provide available monitoring data or other information about the affected water body and/or proposed activity to help determine the significance of the proposed degradation for specific parameters. The information includes recent ambient chemical, physical, or biological monitoring data sufficient to characterize, during the appropriate conditions, the spatial and temporal variability of existing background quality of the segment for the parameters that would be affected by the proposed activity. The information would also describe the water quality that would result if the proposed activity were authorized.

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

1. Pollution prevention measures.
2. Reduction in scale of the project.
3. Water recycle or reuse.
4. Process changes.

5. Alternative treatment technology.
6. Advanced treatment technology.
7. Seasonal or controlled discharge options to avoid critical water quality periods.
8. Improved operation and maintenance of existing facilities.
9. Alternative discharge locations.

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

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

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

Although it is recognized that any activity resulting in a discharge to surface waters may have positive and negative aspects, the applicant must show that any discharge or increased discharge will be of economic or social importance in the area. Where there are existing regulated sources located in the area, the department will assure that those sources are complying with applicable requirements prior to authorizing the proposed regulated activity. New sources of a particular parameter will not be allowed where there are existing unresolved compliance problems (involving the same

parameter) in the zone of influence of the proposed activity. The "zone of influence" is determined as appropriate for the parameter of concern, the characteristics of the receiving water body (e.g., lake versus river, etc.), and other relevant factors. Where available, a Total Maximum Daily Load analysis or other watershed-scale plan will be the basis for identifying the appropriate zone of influence. The department may conclude that such compliance has not been achieved where existing sources are violating their NPDES permit limits. However, the existence of a compliance schedule in the NPDES permit may be taken into consideration in such cases. Required controls on existing regulated sources need not be finally achieved prior to authorizing a proposed activity provided there is reasonable assurance of future compliance.

Procedures for Category 2 Waters

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

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

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

Procedures for Category 3 Waters

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

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

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

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

TITLE 72
SECRETARY OF STATE

OCTOBER 2006

CHAPTER 72-02.2-02
ATHLETIC COMMISSIONER AND MIXED FIGHTING STYLE
ADVISORY BOARD

Section

<u>72-02.2-02-01</u>	<u>Definitions</u>
<u>72-02.2-02-02</u>	<u>Mixed Fighting Style Advisory Board</u>
<u>72-02.2-02-03</u>	<u>General Provisions</u>
<u>72-02.2-02-04</u>	<u>Licensing - Terms and Conditions</u>
<u>72-02.2-02-05</u>	<u>Duties of Promoter</u>
<u>72-02.2-02-06</u>	<u>Duties of Referee</u>
<u>72-02.2-02-07</u>	<u>Duties of Judges</u>
<u>72-02.2-02-08</u>	<u>Duties of Seconds</u>
<u>72-02.2-02-09</u>	<u>Duties of Timekeeper</u>
<u>72-02.2-02-10</u>	<u>Duties of Physician</u>
<u>72-02.2-02-11</u>	<u>Ticket Provisions</u>
<u>72-02.2-02-12</u>	<u>Contracts and Financial Arrangements</u>
<u>72-02.2-02-13</u>	<u>Gross Revenue Fee</u>
<u>72-02.2-02-14</u>	<u>Sham or Collusive Matches</u>
<u>72-02.2-02-15</u>	<u>Weight Classes - Weigh-In and Weight Differences</u>
<u>72-02.2-02-16</u>	<u>Conduct of Contests and Exhibitions</u>
<u>72-02.2-02-17</u>	<u>Proper Appearance and Attire</u>
<u>72-02.2-02-18</u>	<u>Bandage and Glove Requirements</u>
<u>72-02.2-02-19</u>	<u>Medical and Other Safeguards</u>
<u>72-02.2-02-20</u>	<u>Ring or Fenced Area</u>
<u>72-02.2-02-21</u>	<u>Ringside Equipment</u>
<u>72-02.2-02-22</u>	<u>Scoring System</u>
<u>72-02.2-02-23</u>	<u>Fouls</u>
<u>72-02.2-02-24</u>	<u>Stalling or Faking</u>
<u>72-02.2-02-25</u>	<u>Results of Contests</u>

72-02.2-02-01. Definitions. For purposes of this chapter, unless the context otherwise requires:

1. **"Commission member"** means the North Dakota mixed fighting style advisory board, or a member of the board acting on its behalf.

2. "Commissioner" means the North Dakota secretary of state acting as the state athletic commissioner or the commissioner's designee.
3. "Contest" means a contest of mixed fighting style.
4. "Exhibition" means an exhibition of mixed fighting style where a decision is not rendered.
5. "Fish-hooking" means the action of hooking (grasping) and pulling the inside of a participant's eyes, nose, ear, or mouth.
6. "Gong" means the bell, horn, or buzzer that has a clear tone loud enough for the contestants and referee to hear.
7. "Grounded" means when a participant's torso or any three points of the participant's body contact the floor.
8. "Match" means any contest or exhibition, in which participants intend to and actually inflict punches, blows, or employ other techniques to temporarily incapacitate an opponent in a match, regardless of whether the object of the participants is to win or display their skills without striving to win.
9. "Matchmaker" means any person who brings together a professional mixed fighting style match or arranges professional mixed fighting style matches.
10. "Mixed fighting style competition" means an advertised or professionally promoted exhibition or contest for which any type of admission fee is charged and in which participants inflict or employ kicks, punches, blows, holds, and other techniques to injure, stun, choke, incapacitate, or disable an opponent. The techniques include a combination of boxing, kickboxing, wrestling, grappling, or other recognized martial arts.
11. "Participant" means a participant in a match who receives remuneration directly or indirectly as consideration for the participant's performance.
12. "Promoter" means any person, club, corporation, or association, and in the case of a corporate promoter, includes any officer, director, employee, or stockholder thereof, who produces, arranges, or stages any professional mixed fighting style contests or exhibitions.
13. "Second" means an individual working in the corner also known as a cornerperson.
14. "Stalling or faking" means that one or neither opponent is trying to better that person's position.

15. "Tap out" means the physical act of tapping the opponent, the mat, or one's self to signal one's submission. When unable to physically tap out, a submission can be vocal.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-02. Mixed fighting style advisory board. The North Dakota state mixed fighting style advisory board consists of nine members who must be appointed to either one-year, two-year, or three-year terms. Any vacancy in the membership of the board, caused other than by expiration of a term, must be filled only for the balance of the term of the member in whose position the vacancy occurs.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-03. General provisions. These rules govern all mixed fighting style contests or exhibitions.

The commissioner and its members have sole direction, management, control, and jurisdiction over all professional mixed fighting style contests or exhibitions to be conducted or held within the state of North Dakota and over all licenses to any and all persons who participate in mixed fighting style.

The commissioner will not approve the following:

1. Matches containing both amateur and professional contests on the same card.
2. Matches in which more than two participants appear in the ring or fenced area at the same time.
3. Matches in which members of the opposite sex are competing against each other.
4. Any barroom type brawls, "so you think you're tough" type contests, roughneck type matches, or matches of similar character or nature if any participant receives remuneration directly or indirectly, whether or not a participant has prior organized amateur or professional training.
5. Matches in which there are no gloves used by the participants.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-04. Licensing - Terms and conditions. An application for a license must be made in writing on a form supplied by the board and be verified under oath by the applicant.

The applicable fee must be submitted with the application. Applicants performing multiple duties must be licensed for each duty, but are not responsible for payment of more than one license fee. The license fee required of those holding more than one license is the highest of the applicable license fees.

1. A license is valid from the date of issuance until December thirty-first of that year. The licenses available and fees are as follows:
 - a. Judge - twenty-five dollars.
 - b. Manager - twenty-five dollars.
 - c. Matchmaker - fifty dollars.
 - d. Participants - ten dollars.
 - e. Physician - no fee.
 - f. Promoter - one hundred dollars.
 - g. Referee - twenty-five dollars.
 - h. Second/trainer - ten dollars.
 - i. Timekeeper - ten dollars.
2. Terms and conditions. The following terms and conditions apply to licensed participants:
 - a. Every license, excluding those for mixed fighting style participants, is subject to the following:
 - (1) The applicant must be at least eighteen years of age:
 - (2) The applicant must submit verifications, from qualified persons, of the licensee's proficiency, if requested by the commissioner:
 - (3) The applicant must agree that training requirements may be established by the commissioner:
 - (4) Financial responsibility, experience, character, and general fitness of an applicant, including in the case of corporations, its officers and stockholders, are such that the participation

of such applicant will be consistent with the public interest, convenience, or necessity and the safety of participants and with the best interests of mixed fighting styles generally; and

(5) For the first infraction of any of the provisions of this subsection, the commissioner may issue a verbal warning. Following a second infraction, a written warning may be issued. Following a third infraction, the license may be suspended up to a six-month period. However, the commissioner may suspend a license for any serious violation without warning.

b. Every license issued to a mixed fighting style participant is subject to the following:

(1) The applicant must be at least eighteen years of age:

(2) The applicant must provide the applicant's legal and professional name, street address, city, state, country, zip code, telephone number, social security number, date of birth, height, weight, color of eyes, and any distinguishing marks:

(3) The applicant must provide the names and addresses of the applicant's trainers and managers, if applicable:

(4) The applicant must provide the applicant's complete record:

(5) The applicant must disclose whether the applicant is, or has been, under suspension during the preceding twelve months. If so, the state and the reason for the suspension must be disclosed:

(6) The applicant must provide acceptable photo identification:

(7) The applicant must present documented evidence that the applicant has been administered a test by a laboratory in the United States that possesses a certificate under the Clinical Laboratory Improvement Act [42 U.S.C. 263a], to detect the presence of bloodborne pathogens as identified by the commissioner, within the last six months prior to the application and that the results are negative:

(8) The applicant must disclose the date of the most recent complete physical examination, any serious bodily injuries, any serious head injuries, any surgeries, and whether the applicant is taking any medications.

- (a) If the commissioner determines that a question exists as to the medical condition of a participant, a complete physical may be required. A list of approved physicians who are qualified to perform the physical will be provided and the participant must choose one to conduct the physical. Upon completion of the physical the physician chosen shall submit a report of the results directly to the commissioner. The participant shall also receive a report. The report must affirmatively state the physician's opinion as to the advisability of the participant fighting.
- (b) The physical performed must address the question raised about the participant's health and include such testing as a prudent physician would perform to determine the health and fitness of an individual to engage in the sport of mixed fighting style. The results of all required examinations must be made a part of the participant's permanent medical record as maintained by the commissioner. The costs of all examinations required by this section shall not be paid by the commissioner.
- (9) Participants, under any circumstances, may not compete or appear in a contest or exhibition for up to ninety days after not being able to defend themselves.
- (10) No participant may compete or appear in a contest or exhibition in less than seven days after the completion of that participant's last contest.
- (11) Upon the request of the commissioner, the applicant must provide satisfactory evidence of the applicant's ability to compete. The commissioner may hold an informal hearing to determine whether the license should be granted or revoked at the request of the participant or upon the commissioner's own motion. The commissioner may also hold an informal hearing to determine whether to review or revoke a suspension of a license issued by the state. The participant shall be notified of the time and place of the informal hearing and the substance of the matter to be determined. The commissioner shall permit the participant the opportunity to present evidence on the participant's behalf.
- (12) The commissioner will honor and give faith and credit to actions of regulatory agencies in other jurisdictions.

- (13) If, in the judgment of the commissioner, the participant has been guilty of an act detrimental to the best interests of mixed fighting style generally, or to the public interest, convenience or necessity, such act is grounds for the denial or suspension of a license:
- (14) For the first infraction under this subsection, the commissioner may issue a verbal warning. Following a second infraction a written warning may be issued. Following a third infraction the license may be suspended up to a six-month period. However, the commissioner may suspend a license for any serious violation without warning; and
- (15) A participant may request in writing an informal hearing before the commissioner to review or revoke a suspension imposed for a recent knockout, injury, or other medical reason upon the participant furnishing further proof of a sufficiently improved physical condition. A participant may also request an informal hearing before the commissioner to review or revoke a suspension imposed for failure of a drug test or for the use of a false alias, or for falsifying, or attempting to falsify, an official identification card or document, upon the participant's furnishing proof that the suspension was not, or is no longer merited by the facts.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-05. Duties of promoter. A promoter is subject to the following requirements:

1. Any person, party, or organization acting as a promoter of a professional mixed fighting style competition must obtain approval from the commissioner at least two weeks prior to the date of the competition.
2. Prior to the event, the promoter must file with the commissioner proof of adequate insurance for the protection of the participants, officials, and the attending public.
3. The promoter must also provide health insurance for each participant to provide medical coverage for any injuries sustained in the competition. The minimum benefit is two thousand five hundred dollars with the accidental death of at least two thousand five hundred dollars. The promoter is responsible to pay any deductibles necessary.
4. The promoter shall submit a completed notification of contest form to the commissioner at least five days before an event.

5. Changes in the announced or advertised programs for any main event contest must be filed with and approved by the commissioner at least forty-eight hours before the weigh-in time of the contest unless otherwise directed or authorized by the commissioner. Notices of such change or substitution must also be included in any public announcement or advertisement relating to the card and must be conspicuously posted at all box offices on the premises and announced from the ring before the opening match and, if any of the patrons apply for refunds on tickets already purchased, the promoters shall make such refunds upon demand, provided such tickets are presented at the box office on the date of the program and before the commencement of the second match or the main event, whichever comes first.
6. The promoter shall submit ticket information along with a financial report to the commissioner, on a form prescribed by the commissioner, within ten days after the contest or exhibition, as provided in section 72-02.2-02-13.
7. The promoter is responsible for making financial arrangements with all event officials, except for the commissioner. The commissioner will approve and assign all officials.
8. The promoter must file all contracts between the promoter and the participants with the commissioner and the commissioner may review and approve such contracts to ensure that they conform to the provisions of these rules.
9. Failure to file any required report or form may result in a denial of the next requested contest or exhibition.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-06. Duties of referee. A referee is subject to the following requirements:

1. A referee may not officiate more than thirty-two scheduled rounds in any one scheduled promotion.
2. The referee must have a physical examination before acting in the referee's official capacity. This may be done at either the official weigh-in or before the contest or exhibition begins by the ringside physician. A physician's approval must be given to the commissioner before the referee enters the ring.
3. The referee shall exercise immediate authority, direction, and control over the fight for which the referee has been designated, and it is the referee's responsibility to enforce all rules.

4. Before starting a contest the referee shall ascertain from each participant the name of the participant's chief second, and shall gather them together for final instructions. Such chief second will be responsible for the conduct of assistant corners during the contest.
5. At the beginning of each match the scorecards will be handed out to each of the three judges.
6. Pursuant to these rules, the referee may stop the fight and make a decision during any stage in the fight, if the referee determines that the matches have become partial, or if a participant is in such condition that if such participant continues fighting, the participant is liable to suffer a serious injury.
7. If a participant suffers a cut or a wound that is considered dangerous, the referee has the authority to stop the fight. In these cases, the referee shall consult the head ringside physician appointed to attend the fight on the necessity of stopping the fight.
8. The referee is responsible for deciding whether an injury had been done by a legal or illegal blow, intentional or accidental, and must notify the judges immediately.
9. When, for whatever reason, a participant loses a mouthpiece, the referee will proceed to return the mouthpiece when there is a lull in the action. The referee will exercise full authority, to avoid a participant ejecting the mouthpiece intentionally, and can deduct a point as a result of this behavior or disqualify the participant.
10. At the end of each round, the scorecards will be collected from the three judges, and given to the commissioner at ringside for computation.
11. The use of alcoholic beverages is prohibited from twelve hours prior to the fight until after the assigned duties have been completed.
12. If a referee becomes incapacitated and is unable to complete the entire match, a timeout shall be called by the commissioner, and an alternate licensed referee shall immediately be assigned to referee.
13. The referee determines and informs the appropriate officials how the fight was stopped.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-07. Duties of judges. All judges are subject to the following requirements:

1. Each of the three judges must be seated midway between the ring posts of the ring, but not on the same side as another judge, and must have an unimpaired view of the ring.
2. The judges must use the "ten point must" score system. The winner of each round must be awarded ten points, and the loser of the round must be awarded nine points or less, except for a rare even round, which is scored (10-10).
3. Judges shall indicate the winner of each round on the scorecard by marking and signing their cards in ink. Judges must be discreet at all times. There should be no discussion with anyone except with the commission members or the commissioner.
4. A decision that is rendered at the termination of a match may not be changed without a hearing before the commissioner, unless it is determined that the computation of the scorecards shows a clerical or mathematical error giving the decision to the wrong participant, in which case such clerical or mathematical error may be corrected by the judges.
5. The use of alcoholic beverages is prohibited from twelve hours prior to the fight until after the assigned duties have been completed.
6. If a judge becomes incapacitated and is unable to complete the scoring of a match, a timeout shall be called by the commissioner and an alternate licensed judge must immediately be assigned to score the contest from the point at which the duties were assumed.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-08. Duties of seconds. All seconds are subject to the following requirements:

1. A participant may not have more than three seconds, one of whom must be designated as the chief second. During the rest period, one second must be allowed inside the ring and two seconds will be allowed on the apron.
2. The seconds are restricted to the corner and must not be touching the apron. The second may not enter the ring until the timekeeper has indicated the end of the round and shall leave the ring at the timekeeper's gong, at which time the ring platform should be cleared of all obstructions.
3. A chief second may indicate to the referee that the participant cannot continue and that the contest should be stopped. Verbal notification.

hand signals, throwing in the towel, or mounting of the ring by the chief second may be used.

4. A corner may not administer alcoholic beverages, narcotics, or stimulants to a participant, pour or spray excessive water on the body of a participant, or place ice in the trunks or cup of a participant during the contest.
5. No second shall enter the ring with shoes.
6. Seconds shall stay off the ring floor or canvas while the bout is in progress, may not lean on the ring or cage, and may not engage in excessive banging or verbal outbursts.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-09. Duties of timekeeper. A timekeeper is subject to the following requirements:

1. The timekeeper must possess a stopwatch. The timekeeper shall indicate the beginning and end of each round by the gong. Ten seconds before the end of each round the participants shall be warned by three loud strikes.
2. If a contest terminates before the scheduled limit of rounds, the timekeeper shall inform the appropriate officials of the exact duration of the contest.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-10. Duties of physician. A physician is subject to the following requirements:

1. The physician shall examine each participant at the weigh-in. If the participant is determined to be in acceptable physical condition, the physician must certify this on the form provided by the commissioner.
2. The examination shall include the following:
 - a. Eyes:
 - b. Ears:
 - c. Mouth and jaw:

- d. Skin:
 - e. Nose:
 - f. Heart:
 - g. Lungs:
 - h. Head:
 - i. Hands:
 - j. Abdomen:
 - k. Blood pressure; and
 - l. A female participant must submit to an early pregnancy testing.
3. If more than one physician is assigned to work the contest the commissioner will appoint one as the head physician.
4. The physician or physicians must be seated near the steps into the ring, one in each corner if two are present. The physician or physicians will remain there for the duration of the contest, unless the physician or physicians are needed in the ring.
5. The physician, or either of the physicians if two are present, may enter the ring at any time during a match, and may terminate any match if, in the physician's opinion, any participant has received severe punishment or is in danger of serious physical injury.
- a. In the event of any serious physical injury, such physician shall immediately render any emergency treatment necessary, recommend further treatment or hospitalization if required, and fully report the entire matter to the commissioner within twenty-four hours and, if necessary, subsequently thereafter;
 - b. Such physician may also require that the injured participant and participant's manager remain in the ring, or on the premises, or report to a hospital after the contest for such period of time as such physician deems advisable; and
 - c. A physician shall examine each participant after the match. If the participant is determined to be in acceptable physical condition,

the physician shall certify this on the form provided by the commissioner.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-11. Ticket provisions. The following requirements apply to mixed fighting style contest or exhibition tickets:

1. All tickets of admission to any such mixed fighting style contest or exhibition must bear clearly the purchase price, and no such ticket may be sold for more than such price as printed thereon.
2. The following persons may be admitted to a contest or exhibition without presenting a ticket of admission, but must show appropriate identification as either approved or issued by the commissioner. No other persons may be admitted without presenting an admission ticket.
 - a. The commissioner and commission members;
 - b. Persons designated by the commissioner for official duty;
 - c. Officials attending under provisions of state law or these rules;
 - d. The principals, managers, and corners who are involved in the contest or exhibition;
 - e. The emergency medical personnel on duty;
 - f. The police officers, firefighters, and other public officials actually on duty; and
 - g. Persons arranged by the promoter for other duties.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-12. Contracts and financial arrangements. No promoter, either directly or indirectly, may have any financial interest in a participant competing on premises owned or leased by the promoter, or in which such promoter is otherwise interested, except pursuant to the specific written authorization of the commissioner.

A copy of all contracts between the participants and promoters must be given to the commissioner prior to the weigh-in. The commissioner may refuse to honor or approve a contract unless it is filed with the commissioner prior to the weigh-in.

All payments to the participant will be paid by the promoter or promoter's designee. A participant may not be paid for services before the contest, and should it be determined by the commissioner that such participant did not fight an honest match of the participant's skill, the participant may not be paid for such services.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-13. Gross revenue fee. There is hereby imposed a fee upon each promoter, or other principal, operating in this state who conducts any professional mixed fighting style contest or exhibition held within this state for each such event. The fee must be equal to the product of the gross revenues of each such mixed fighting style multiplied by one percent or such other amount as may be allowed by law. For purposes of this section, gross revenues means any and all revenues, from whatever source derived, received by any promoter, or other principal, on account of any particular contest or exhibition, including any revenues received from any advance ticket sales, gate receipts, promotional or advertising consideration, and from any cable television and pay-per-view telecasts of such contest or exhibition, exclusive of any federal tax thereon. All cable television and pay-per-view telecasts are subject to a fee of the gross revenue received from such cable television and pay-per-view telecasts multiplied by one percent or such other amount as may be allowed by law exclusive of any federal tax thereon.

Each promoter, or other principal, liable for such gross revenue fee shall provide an accounting to the commissioner on a form provided by the commissioner not later than ten days from the date of the contest or exhibition, prepared by the promoter or by a certified public accountant, on behalf of the promoter, using generally accepted accounting principles, which details the source and amount of each component of gross revenues and contains a calculation showing the fee owed to the commissioner. Any source documents or records used by the promoter, or the certified public accountant, in preparing the accounting must be made immediately available to the commissioner, upon request, for verification. The gross revenue fee due thereon must be remitted to the commissioner by no later than ten days from the date of the contest of exhibition. Any promoter or other principals involved in the receipt of moneys, or staging of the contest or exhibition, are jointly and severally liable for the gross revenue fee provided for by this section.

Any promoter who fails to calculate or remit the fee, as required, is subject to an immediate suspension of the promoter's license until the delinquent accounting or fee is submitted to the commissioner or until a hearing requested by such promoter is conducted and concluded by or on behalf of the commissioner.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-14. Sham or collusive matches. Any person, including any corporation and the officers thereof, any physician, referee, judge, timekeeper, participant, manager, trainer, or second, who promotes, conducts, gives, or participates in any sham or collusive mixed fighting style match, shall be deprived of the person's license. A licensed promoter or matchmaker may not knowingly engage in a course of conduct in which one participant's skills or abilities is significantly in excess of the other participant so that a mismatch results with the potential of physical harm to the participant. If such action occurs, the commissioner may exercise the commissioner's powers to discipline.

Without otherwise limiting the discretion of the commissioner as provided in these rules, the commissioner may suspend or revoke a license or refuse to renew or issue a license, if the commissioner finds that the applicant, or any person who is a partner, agent, employee, stockholder, or associate of the applicant, has been convicted of a crime in any jurisdiction, or is associating or consorting with any person who has or persons who have been convicted of a crime or crimes in any jurisdiction or jurisdictions, or is consorting or associating with bookmakers, gamblers, or persons of similar pursuits, or if the applicant or applicant's associate engaged in similar pursuits, or is financially irresponsible, or has been guilty of or attempted any fraud or misrepresentation, or has violated or attempted to violate any law in any jurisdiction or any rules, regulation, or order of the commissioner, or has violated any rule of mixed fighting style which has been approved or adopted by the commissioner, or has been guilty of or engaged in similar, related, or like practices.

When the commissioner is notified in writing of tampering with any contest or participants, it may send a letter notifying the applicable board or commissioner of any other state involved.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-15. Weight classes - Weigh-in and weight differences.

1. The classes for participants competing in mixed fighting style contest or exhibition are shown in the following schedule:

- | | |
|-----------------------------|-------------------------------|
| a. <u>Flyweight</u> | <u>up to 125 pounds</u> |
| b. <u>Bantamweight</u> | <u>over 125 to 135 pounds</u> |
| c. <u>Featherweight</u> | <u>over 135 to 145 pounds</u> |
| d. <u>Lightweight</u> | <u>over 145 to 155 pounds</u> |
| e. <u>Welterweight</u> | <u>over 155 to 170 pounds</u> |
| f. <u>Middleweight</u> | <u>over 170 to 185 pounds</u> |
| g. <u>Light heavyweight</u> | <u>over 185 to 205 pounds</u> |

- h. Heavyweight over 205 to 265 pounds
- i. Super heavyweight all over 265 pounds

- 2. The time of the weigh-in must be approved by the commissioner. Unless otherwise arranged, the participant must be weighed at least eight but not more than twenty-four hours before the contest. The participants must be weighed in the presence of the public, the opponent, a representative of the commissioner, and an official representing the promoter, on scales approved by the commissioner.

A designated commission member shall run the weigh-in. This commission member shall take control and inform all participants of the procedure and keep the crowd out of the way.

The scales to be used at the official weighing must be available to all participants at least two hours before the official weigh-in. For a title fight, there must be two scales, one for the official weigh-in and one for the participants' use. The scales must be arranged for and provided by the promoter. The official scale must be certified and calibrated for any title fights and must also be arranged for and paid for by the promoter.

Only those participants who have been approved for the contest may be weighed in during the official ceremony.

A participant who has contracted in a given weight class may not be permitted to compete if the participant's weight exceeds that class, unless the contract provides for the opposing participant to agree to the weight differential. Under no circumstances shall that weight differential exceed ten percent above the originally scheduled weight class.

If any participant fails to reach the weight limit determined in the applicable category, at the indicated date and time for the official weigh-in, and the opposing participant agrees, each one of them, or both, shall have two additional hours to make the prescribed weight, provided that weight loss in excess of two pounds is not permitted for a participant who weighs less than one hundred forty-five pounds and weight loss in excess of three pounds is not permitted for a participant who weighs over one hundred forty-five pounds.

If the participants fail in making the weight after the two-hour period, both managers and the commissioner must come to an agreement or the match must be canceled.

History: Effective October 1, 2006.
General Authority: NDCC 53-01-07
Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-16. Conduct of contests and exhibitions. Mixed fighting style competition may not be less than twenty rounds of mixed fighting style competition

on any one program of mixed fighting style that consists of contests or exhibitions of mixed fighting style competition.

1. Mixed fighting style competition that is not a championship contest must not exceed three rounds in duration.
2. A championship contest of mixed fighting style competition must be five rounds in duration.
3. A round of mixed fighting style in a contest or exhibition of mixed fighting style competition must be five minutes in duration. A period of rest following a round of mixed fighting style in a contest or exhibition of mixed fighting style competition must be one minute in duration.
4. The commissioner may not allow a match in which the participants are not fairly matched. In determining if participants are fairly matched, the following must be considered:
 - a. Win-loss records of the participants.
 - b. Weights of the participants.
 - c. Number of fights by the participants.
5. At each regulated contest or exhibition, there must be in attendance a licensed referee who shall direct and control the match.
6. At each regulated contest or exhibition, there must be in attendance three licensed judges who shall at the termination of each mixed fighting style match render their decisions.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-17. Proper appearance and attire.

1. Each participant must be clean and present a tidy appearance.
2. Each participant must have the person's fingernails and toenails cut and trimmed.
3. The excessive use of grease or any other foreign substance may not be used on the face, hair, or body of a participant. The referee or commission member shall cause any excessive grease or foreign substance to be removed. The commissioner shall determine whether head or facial hair presents any hazard to the safety of the participant or the opponent or will interfere with the supervision and conduct of the contest or exhibition. The participant may not compete in the

contest or exhibition unless the circumstances are corrected to the commissioner's satisfaction.

4. A participant may not wear any jewelry or piercing accessories while participating in the contest or exhibition.
5. A male participant may wear mixed martial arts shorts, kickboxing shorts, or lightweight elastic polyurethane fabric bike-style shorts, any combination of the foregoing, or other clothing approved by the commissioner. A female participant may wear mixed martial arts shorts, kickboxing shorts, or lightweight elastic polyurethane fabric bike-style shorts, as well as a tight-fitting top, or any combination of the foregoing, or other clothing approved by the commissioner.
6. A participant must use a mouthpiece that has been individually fitted.
7. All participants shall have their hair secured in a manner that does not interfere with the vision or safety of either participant, including no products or ornaments.
8. Participants shall not use cosmetics, perfumes, colognes, or other fragrances.
9. Male participants shall wear groin protection.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-18. Bandage and glove requirements.

1. The gloves will be furnished by promoter and approved at the weigh-in by the commissioner. They will be examined to assure they are whole, clean, and in sanitary condition. The padding must not be misplaced or lumpy. No breaking, roughing, or twisting of gloves is permitted.
2. The gloves for every contest or exhibition that is designated as a main event must be new, furnished by the promoter, and made to fit the hands of the participant.
3. In all mixed fighting style contests or exhibitions, the gloves of each participant must be put on in the dressing room under the supervision of a commission member and examined in the ring by the referee. If a glove is found to be unfit, it must be replaced with a glove that meets the requirements of this section.
4. For each contest or exhibition of mixed fighting style, the participant must wear gloves that weigh not less than four ounces and not more than eight ounces.

5. The bandages may not exceed one winding of surgeon's adhesive tape, not over one and one-half inches wide, placed directly on the hand to protect the part of the hand near the wrist. The tape may cross the back of the hand twice, but may not extend within three-fourths of an inch of the knuckles when the hand is clenched to make a fist.
6. Each participant shall use a soft surgical bandage not over two inches wide, held in place by not more than six feet of surgeon's adhesive tape for each hand. Up to one 15-yard roll of bandage may be used to complete the wrappings of each hand. Strips of tape may be used between the fingers to hold down the bandage. Bandages must be adjusted in the dressing room in the presence of a commission member and both participants.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-19. Medical and other safeguards. The matches may not begin until adequate safeguards to protect the health of the participants are made.

Adequate safeguards must include:

1. The presence of the highest level of emergency medical personnel available in the community, i.e., EMT, EMT-intermediate, or EMT-paramedic, as defined by the North Dakota state department of health, emergency health services section. The appropriate level of emergency medical personnel present shall be determined by the commissioner.
2. The presence of at least one physician licensed by the North Dakota state board of medical examiners and licensed as a ring physician by the commissioner, at ringside at all times during the match. Ring physicians licensed by other states may be allowed at ringside at the discretion of the commissioner.
3. The presence of an ambulance, dedicated solely to the participants, at the site of the contest or exhibition. The ambulance may be released in an emergency, only temporarily and only with the approval of the designated ring physician. The match must be held in abeyance until the ambulance and the emergency medical personnel return to the site.
4. The use of rubber or plastic gloves acceptable to the commissioner during the match by all persons including managers, seconds, timekeepers, ring physicians, and referees, coming into contact with a participant during the course of a match, other than another participant in the same match.
5. At official ringside tables smoking or alcoholic beverages are prohibited.

6. The placement of camera and media people only in neutral corners. Such persons must have a pass to sit around the ring. These persons must be approved by the promoter and the commissioner before they receive passes.
 - a. A stretcher to be kept under the ring.
 - b. A portable resuscitator with oxygen to be kept under the ring.

The commissioner may declare forfeited any prize, remuneration, or purse, or any part thereof, belonging to the participants or one of them, or the share thereof of any manager if, in the commissioner's judgment, such participant or participants are not honestly competing or the participant or manager of a participant, as the case may be, has committed an act on the premises in violation of any rule, order, or regulation of the commissioner. The amount so forfeited must be paid within forty-eight hours to the commissioner, following notice to the offending participant or manager and an opportunity for such person to respond to the forfeiture, in person or in writing, to the commissioner.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-20. Ring or fenced area. A mixed fighting style match may not be permitted in any ring unless such ring has been inspected and approved by the commissioner. The commissioner shall prescribe standard acceptable size and quality requirements for rings.

The following requirements also apply:

1. Mixed fighting style contests and exhibitions may be held in a ring or in a fenced area.
 - a. A ring may not be less than sixteen feet [4.88 meters] or more than thirty-two feet [9.753 meters] square inside the ropes.
 - b. The ring floor must extend at least eighteen inches beyond the ropes. The ring floor must be padded with Ensolite or similar closed-cell foam, with at least a one-inch layer of foam padding. Padding must extend beyond the ring ropes and over the edge of the platform, with a top covering of canvas duck or similar material tightly stretched and laced to the ring platform. Material that tends to gather in lumps or ridges must not be used.
 - c. The ring platform must not be more than four feet above the floor of the building and must have suitable steps for the use of the mixed fighting participants.

- d. Ring posts must be made of metal, not more than three inches in diameter, extending from the floor of the building to a minimum height of fifty-eight inches above the ring floor, and must be properly padded in a manner approved by the commissioner. Ring posts must be at least eighteen inches away from the ring ropes.
 - e. There must be a minimum of five ring ropes, with ties at appropriate intervals, with a minimum of two ties per side, not less than one inch in diameter and wrapped in soft material. The lowest ring rope must be twelve inches above the ring floor.
 - f. There must not be any obstruction or object, including, without limitation, a triangular border, on any part of the ring floor.
2. A fenced area used in a contest or exhibition of mixed fighting style must meet the following requirements:
- a. The fenced area must be circular or have at least four equal sides and must be no smaller than sixteen feet wide and no larger than thirty-two feet wide.
 - b. The floor of the fenced area must be padded with Ensolite or similar closed-cell foam, with at least a one-inch layer of foam padding, with a top covering of canvas duck or similar material tightly stretched and laced to the platform of the fenced area. Material that tends to gather in lumps or ridges must not be used.
 - c. The platform of the fenced area must not be more than four feet above the floor of the building and must have suitable steps for the use of the participants.
 - d. Fenceposts must be made of metal, not more than six inches in diameter, extending from the floor of the building to between five and seven feet above the floor of the fenced area, and must be properly padded in a manner approved by the commissioner.
 - e. The fencing used to enclose the fenced area must be made of a material that will prevent a participant from falling out of the fenced area or breaking through the fenced area onto the floor of the building or onto the spectators, including, without limitation, chain link fence coated with vinyl.
 - f. Any metal portion of the fenced area must be covered and padded in a manner approved by the commissioner and must not be abrasive to the participant.

- g. There must not be any obstruction on any part of the fence surrounding the area in which the participants are to be competing.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-21. Ringside equipment.

1. The promoter shall supply the following items and which must be available for use as needed in the corner. The following items must be available and approved by a commissioner prior to the match:
 - a. Two buckets for participants.
 - b. Chairs or stools for use by the corners.
2. The use or administration of drugs, stimulants, or nonprescription preparations by or given to a contestant, other than those listed below, is prohibited.
 - a. Petroleum jelly for discretionary use around the eyes.
 - b. Adrenalin in a manufacturer's premeasured vial in a 1/1000 solution.
 - c. Coagulant limited to avitene, thrombin, thrombinplastin, or fibroplastic.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-22. Scoring system.

1. Each judge of a contest or exhibition of mixed fighting style competitions that is being judged shall score the contest or exhibition and determine the winner through the use of the following system:
 - a. The better participant of a round receives ten points and the opponent proportionately less.
 - b. If the round is even, each participant receives ten points.
 - c. No fraction of points may be given.

- d. If a point is being deducted, the referee must inform each judge at the time of foul and a point must be deducted on the judge's scorecard.
- e. Points for each round must be awarded immediately after the end of the period of mixed fighting style in the round.
- f. Judges will score the round based upon the following criteria:
 - (1) Effective striking.
 - (2) Effective grappling.
 - (3) Ring control.
 - (4) Effective aggressiveness and defense.
2. After each round, the scorecards will be collected from the judges and delivered to the commissioner.
3. At the conclusion of the match, the commissioner will tabulate the scores and give them to the announcer who will then inform the audience of the decision.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-23. Fouls.

1. The following acts constitute a foul:
 - a. Butting with the head.
 - b. Eye gouging of any kind.
 - c. Biting.
 - d. Hair pulling.
 - e. Fish-hooking.
 - f. Groin attacks of any kind.
 - g. Putting a finger into any orifice or into any cut or laceration on an opponent.
 - h. Small joint manipulation.

- i. Striking to the spine or the back of the head. The back of the head is defined as the area behind each ear from the top of the head to the base of the neck. The spine is defined as the area from two inches to the left of the backbone to two inches to the right of the backbone.
- j. Striking downward using the point of the elbow.
- k. Throat strikes of any kind, including, without limitation, grabbing the trachea.
- l. Clawing, pinching, or twisting the flesh.
- m. Grabbing the clavicle.
- n. Kicking the head of a grounded opponent.
- o. Kneeing the head of a grounded opponent.
- p. Stomping a grounded opponent.
- q. Kicking to the kidney with the heel.
- r. Spiking an opponent to the canvas on the opponent's head or neck.
- s. Throwing an opponent out of the ring or fenced area.
- t. Holding the shorts or gloves of an opponent.
- u. Spitting at or on an opponent.
- v. Engaging in any unsportsmanlike conduct that causes an injury to an opponent.
- w. Holding the ropes or the fence.
- x. Using abusive language in the ring or fenced area.
- y. Attacking an opponent on or during the break.
- z. Attacking an opponent who is under the care of the referee.
- aa. Attacking an opponent after the bell has sounded the end of the period of mixed fighting style competition.
- bb. Flagrantly disregarding the instructions of the referee.

cc. Timidity, including, without limitation, avoiding contact with an opponent, intentionally or consistently dropping the mouthpiece or faking an injury.

dd. Interference by the corner.

2. Deduction of points.

a. If a participant fouls the opponent during a contest or exhibition of mixed fighting style competitions, the referee may penalize the participant by deducting points from the participant's score, whether or not the foul was intentional. The referee may determine the number of points to be deducted in each instance and shall base the determination on the severity of the foul and its effect upon the opponent.

b. When the referee determines that it is necessary to deduct a point or points because of a foul, the referee shall warn the offender of the penalty to be assessed.

c. The referee shall, as soon as is practical after the foul, notify the judges and both participants of the number of points, if any, to be deducted from the score of the offender.

d. Any point or points to be deducted for any foul must be deducted in the round in which the foul occurred and may not be deducted from the score of any subsequent round.

3. Accidental.

a. If a contest or exhibition of mixed fighting style competitions is stopped because of an accidental foul, the referee shall determine whether the participant who has been fouled can continue. If the participant's chance of winning has not been seriously jeopardized as a result of the foul and if the foul did not involve a concussive impact to the head of the participant who has been fouled, the referee may order the contest or exhibition continued after a recuperative interval of not more than five minutes. Immediately after separating the participant, the referee shall inform the commissioner's representative of the determination that the foul was accidental.

b. If the referee determines that a contest or exhibition of mixed fighting style competitions may not continue because of an injury suffered as the result of an accidental foul, the contest or exhibition must be declared a no contest if the foul occurs during:

(1) The first two rounds of a contest or exhibition that is scheduled for three rounds or less; or

- (2) The first three rounds of a contest or exhibition that is scheduled for more than three rounds.
- c. If an accidental foul renders a participant unable to continue the contest or exhibition after:
 - (1) The completed second round of a contest or exhibition that is scheduled for three rounds or less; or
 - (2) The completed third round of a contest or exhibition that is scheduled for more than three rounds, the outcome must be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition.
- d. If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the contest or exhibition stopped because of the injury, the outcome must be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-24. Stalling or faking. A referee shall warn a participant if the referee believes the participant is stalling or faking. If, after proper warning, the referee determines the participant is continuing to stall or pull punches, the referee shall stop the match at the end of the round. If it is determined that either or both participants are stalling or faking, or if the participant refuses to fight, the contest shall be terminated and announced as a no contest and the one or ones in violation shall forfeit their pay as provided in this chapter.

A participant who falls down without being struck or otherwise actively participating in the contest must be immediately examined by a physician. After conferring with the physician, the referee may disqualify the participant and require the participant to forfeit the participant's pay as provided in this chapter.

History: Effective October 1, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

72-02.2-02-25. Results of contests. A contest of mixed fighting style competitions may end under the following results:

- 1. Submission by:
 - a. Physical tap out. When a contestant physically indicates that the contestant no longer wishes to continue.

- b. Verbal tap out. When a contestant verbally announces to the referee that the contestant does not wish to continue.
- 2. Technical knockout by the referee stopping the contest. A technical knockout occurs when:
 - a. The referee stops the bout because the contestant can no longer defend himself or herself.
 - b. The ringside physician advises the referee to stop the bout; or
 - c. An injury as a result of a legal maneuver is severe enough to terminate the bout.
- 3. Decision via the scorecards, including:
 - a. Unanimous decision. All three judges score the bout for the same contestant.
 - b. Split decision. Two of the three judges score the bout for one contestant and one judge scores it for the opponent.
 - c. Majority decision. When two judges score the bout for the same contestant and one judge scores the bout a draw.
 - d. Draw, including:
 - (1) Unanimous draw. When all three judges score the bout a draw.
 - (2) Majority draw. When two judges score the bout a draw.
 - (3) Split draw. When all three judges score the bout differently and the score total results in a draw.
- 4. Technical decision. When the bout is stopped prematurely due to an injury and a contestant is leading on the scorecards.
- 5. Technical draw. When an injury is sustained during competition as a result of an unintentional foul which causes the injured contestant to be unable to continue and the sufficient number of rounds has been completed with the results of the scorecards being a draw.
- 6. Disqualification. When an injury is sustained during competition as a result of an intentional foul severe enough to terminate the contest.
- 7. Forfeit. When a contestant fails to begin competition or prematurely ends the contest for reasons other than injury or indicating a tap out.

8. No contest. When a contest is prematurely stopped due to accidental injury and a sufficient number of rounds have not been completed to render a decision via the scorecards.
9. Corner stops the contest. When the contestant's chief second indicated either physically or verbally that the contestant does not wish to continue.

History: Effective October 21, 2006.

General Authority: NDCC 53-01-07

Law Implemented: NDCC 53-01-01.1, 53-01-02

TITLE 99
STATE GAMING COMMISSION

OCTOBER 2006

CHAPTER 99-01.3-01

99-01.3-01-01. Ineligible organizations. An organization or a closely related organization is ineligible for a license or permit if either organization has failed to resolve an imbalance involving its gaming or trust account according to section 99-01.3-03-05, has deals or games with state gaming stamps that are not accounted for, is delinquent in paying any tax, interest, penalty, or monetary fine due, has failed to comply with the terms and conditions of an administrative order, or was convicted of violating this article or North Dakota Century Code chapter 12.1-28 or 53-06.1. An auxiliary that is not a closely related organization is eligible for a permit. An organization that is first licensed or first issued a permit ~~on or after July 1, 2002,~~ must have its principal executive office in North Dakota. Except for an educational organization, a county, city, state, political subdivision, or federal entity is not eligible for a license or permit. A nonprofit social, hobby, trade, business, professional, similar club or association, or organization whose primary purpose mainly provides a direct benefit to its officers, is not a public-spirited organization eligible for a license.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01, 53-06.1-01.1

99-01.3-01-02. Site authorization.

1. An eligible organization shall obtain ~~a~~ an approved site authorization for a site within a city or county from the governing body of ~~that city or county~~ the appropriate jurisdiction. The attorney general shall have final approval of a site authorization. A separate site authorization is required for each site. A site authorization ~~is issued by a governing body and approved by the attorney general.~~ It may be issued for a site ~~located~~ location on public or private property and may be restricted or conditional. ~~Restrictions may include, including~~ including types of games, days of the week, and designation ~~of an area at a site~~ where games will be conducted. An organization shall comply with a restriction of a site authorization ~~until~~ unless an amended site authorization is issued by

~~a governing body and approved by the attorney general~~ approved. A site authorization must describe the gaming area designated by an organization that restricts where games may ~~only~~ be conducted and played. No restroom may be part of the gaming area. A governing body may revoke or suspend a site authorization based on good cause.

2. A governing body may issue a site authorization to two or more organizations to conduct games at the same site if the site authorizations restrict the organizations to different days of the week. However, more than one organization may be issued a site authorization for a fairground or similar open space of land.
3. For an initial application for a site authorization for an organization that desires to be recognized as ~~a public-spirited~~ an eligible organization, a governing body of a city or county shall may determine whether the organization qualifies by examining: documents outlined in subsection 1 of section 99-01.3-01-03.
 - a. ~~A copy of an organization's articles of incorporation, charter, bylaws, or similar document to determine its primary purpose and date of origin; and~~
 - b. ~~A copy of an organization's statements of revenues and expenses for the two preceding years to determine whether the primary purpose has been achieved within this state for both years. A governing body shall examine a copy of the minutes of a board of director's meeting which must include a resolution that states the intended use of net proceeds. An organization's financial officer or president shall attest to the accuracy of this information.~~
4. An organization may temporarily use more twenty-one tables at a site than a site authorization allows for up to fourteen days per special event provided that the event is recognized by a local governing body, no more than two events are held per quarter, written approval is granted by a local governing body, and the monthly rent amount does not increase. A special event is an infrequent, significant, and identifiable activity in the community. The site authorization does not need to be amended, regardless of where the tables are placed.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-03

99-01.3-01-03. License.

1. An organization may not conduct games at a site unless the attorney general first approves a site authorization and license for that city or county. A separate license is required for each city or county. For

an initial application for a license for an organization that desires to be recognized as an eligible organization, the attorney general shall determine whether the organization qualifies by examining a copy of an organization's articles of incorporation, charter, bylaws, board of directors' minutes for the previous two years, or any other documents or records considered necessary to determine its primary purpose and date of origin. If the attorney general determines that an organization's actual primary purpose does not qualify it as an eligible organization, the attorney general shall deny the application or revoke the license.

2. ~~An application must include information prescribed by the attorney general and is subject to approval by the attorney general.~~ A license is effective for one year beginning July first and ending June thirtieth. If an organization plans to conduct a raffle on or after July first, a license cannot be issued before January first. If an organization received a charity local permit during the fiscal year, it may not receive a state license.
3. When an organization first applies for a license to conduct a game, the license may not be issued to the organization until after its gaming manager satisfactorily demonstrates to the attorney general that the organization is capable of properly managing and controlling the game that it intends to conduct.
4. If an organization only conducts a raffle or calcutta in two or more cities or counties, the organization may apply for a consolidated license prescribed by the attorney general and remit a one hundred fifty dollar license fee for each city or county in which a site is located.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-03

99-01.3-01-05. Permits.

1. A permit is issued by a city or county governing body and may be for a site located on public or private property. It may be restricted, including types of games, days of the week, and designation of an area at a site where games will be conducted. A governing body may revoke or suspend a permit based on good cause.
2. A permit is required for each site at which games have been authorized. An organization may be issued two or more local permits at the same time. The primary prize under a permit may not exceed two thousand five hundred dollars and total prizes of all games may not exceed twelve thousand dollars per year. However, the total cash prizes for raffles may not exceed three thousand dollars per day and no single cash prize can

exceed one thousand dollars. A donated merchandise prize is valued at its retail price when it is acquired.

3. When a governing body issues a permit, it shall assign a permit number, specify the day or period for which it is effective, and send a copy of it to the attorney general within fourteen days from when it was issued. An organization that has a license may not at the same time have a permit.
4. An organization may receive one or more local permits to conduct a raffle, bingo, or sports pool from a city or county governing body during a year. For a calendar raffle, a local permit may be issued for a calendar year. If an organization plans to conduct a raffle, a permit may not be issued more than six months prior to the first raffle drawing date.
5. An organization may receive one charity local permit to conduct a raffle, bingo, sports pool, paddlewheels, twenty-one, or poker from a city or county governing board during a year. If the organization has received a local permit or license during the fiscal year, it may not receive a charity local permit. If the organization received a charity local permit during the fiscal year, it may not receive a local permit. ~~The~~ For a charity local permit an organization shall within thirty days of the event file a report on the event of a charity local permit a prescribed form with the attorney general and governing body ~~within thirty days of the event~~.
6. For bingo, an organization shall comply with ~~section~~ sections 99-01.3-04-01; and 99-01.3-04-02; and the applicable subsections of section 99-01.3-04-03. For a raffle, an organization shall comply with sections 99-01.3-05-01 through 99-01.3-05-05. For a sports pool, an organization shall comply with section 99-01.3-07-01. For twenty-one, an organization shall comply with sections 99-01.3-08-01, 99-01.3-08-02, 99-01.3-08-08, 99-01.3-08-09, 99-01.3-08-10, and 99-01.3-08-11, and 99-01.3-08-12. For poker, an organization shall comply with section 99-01.3-09-01. For paddlewheels, an organization shall comply with subsection 2 of section 99-01.3-11-01.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-03, 53-06.1-06

CHAPTER 99-01.3-02

99-01.3-02-01. Definitions. As used in this article:

1. "Attorney general" includes an agent of the attorney general.
2. "Bar" means retail alcoholic beverage establishment.
3. "Bar employee" is a person, employed by a bar that is not operated by an organization, who redeems winning pull tabs or bingo cards, or both, involving a dispensing device or who sells raffle tickets or sports pool chances on a board for an organization.
4. "Cash on hand" means coin, currency, and checks, plus an IOU due from another source of cash or nongaming funds, less an IOU owed to another source of cash or nongaming funds.
5. "Cash prize" means coin, currency, marketable security, and a similar item that can be readily redeemed or converted into legal tender. Cash prize does not include precious metal bullion, a coin of precious metal or antique coin that has a market value greater than its face value, or a merchandise gift certificate. The value of a marketable security is its cost.
6. "Cash profit" means:
 - a. For bingo, excluding a dispensing device, total ending cash on hand, less starting cash on hand and prizes paid by check, for a bingo session.
 - b. For a raffle, total receipts less prizes paid by cash and check.
 - c. For a commingled game of pull tabs, total ending cash on hand, less starting cash on hand and cash prizes paid by check, for a day's activity.
 - d. For a commingled game of pull tabs and bingo involving a dispensing device, total currency withdrawn from a dispensing device, less the value of daubers sold, credits paid on a credit redemption register, cash long or short from an employee bank, and prizes paid, for an interim period.
 - e. For a club special, tip board, seal board, and punchboard, the total daily difference between ending cash on hand and starting cash on hand and less prizes paid by check, for the game.
 - f. For a prize board, the total daily difference between ending cash on hand and starting cash on hand, less prizes paid by check and cost of coins, for the game.

9. For a sports pool, the total daily difference between ending cash on hand and starting cash on hand, less prizes paid by check.
 - h. For twenty-one, and paddlewheels described by subsection 2 of section 99-01.3-11-01, total ending cash on hand, plus drop box cash, less total starting cash on hand, for a day's activity.
 - i. For poker, total ending cash on hand, less starting cash on hand, less prizes paid by check, for a day's activity.
 - j. For calcuttas, total ending cash on hand, less starting cash on hand, prizes paid by check, and refunds to players, for the event.
 - k. For paddlewheels described by subsection 1 of section 99-01.3-11-01, total ending cash on hand, less starting cash on hand and prizes paid by check, for a paddlewheel ticket card.
7. "Conduct of games" means the direct operation of a game on a site, including placing pull tabs or bingo cards in or withdrawing currency from a dispensing device. This term excludes a bar employee who redeems a winning pull tab or bingo card, or both, involving a dispensing device or who sells a raffle ticket or a sports pool chance on a board.
 8. "Deal" in pull tabs means each box or bag or series of boxes or bags containing one game with the same serial number. "Deal" in bingo means each box of bingo cards, regardless of the serial number.
 9. "Employee" includes a person employed by an organization, an employee of a temporary employment agency who provides gaming-related services to an organization, and a volunteer of an organization.
 10. "Flare" refers to a flare, master flare, or prize flare:
 - a. Flare. A flare is a display with the state gaming stamp affixed which describes a punchboard, sports-pool board, calcutta board, deal of pull tabs, club special, tip board, prize board, seal board, and deal of bingo cards involving a dispensing device. The flare for a punchboard is its face sheet. A flare for a sports-pool board, calcutta board, prize board, club special, tip board, and seal board is the game board.
 - b. Master flare. A master flare for a game of pull tabs is the same as a "flare" but it does not have a state gaming stamp affixed. A master flare for paddlewheels is described by subsection 1 of section 99-01.3-11-02.

- c. Prize flare. A prize flare is a posted display which describes a winning bingo pattern and prize amount involving bingo cards used in a dispensing device.
11. "Gaming equipment" means a game piece or device specifically designed for use in conducting games, including integral components of a dispensing device such as a currency validator, processing board, EPROM microchip or other data storage device, and attached bar code credit devices, and card shuffling devices. The term excludes fill and credit slips, promotional paper bingo cards, and a bingo dauber.
 12. "Inside information" is any information about the status of a game when that game is conducted that may give a person an advantage over another person who does not have that information, regardless if the person uses or does not use the information, when providing that information is prohibited by the gaming law or rules. It includes information provided through written, verbal, or nonverbal communications that implies or expresses the number of unsold chances; relationship of a game's cash on hand to its ideal adjusted gross proceeds; number of unredeemed top tier or minor winning game pieces that is not posted, value of a hole card in twenty-one, number under the tape of a sports-pool board, or number under a seal.
 13. "Organization" in reference to a local permit includes a "group of people".
 14. "Primary game" is the principal game conducted on a site. Determining factors include frequency of conduct, square footage used, duration of time conducted, and volume of activity.
 15. "Retail price" means the purchase price paid by an organization, excluding sales tax.
 16. "Volunteer" means a person who conducts games for no compensation. A volunteer may receive a gift not exceeding a total retail value of twenty thirty dollars for a consecutive twenty-four-hour period, cash tips, and reimbursement for documented business expenses. No gift may be cash or convertible into cash. See definition of employee.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-02-02. Record check.

1. Unless a person is not required to have a record check according to subsection 4, an organization or distributor may not employ the person as a temporary or permanent "employee" until the organization or

distributor has initiated a record check on the person, or the person has independently requested a record check from the bureau of criminal investigation within one year before employment. However, an organization or distributor may temporarily employ a person pending a record check.

2. An organization or distributor shall initiate a record check of a person by submitting a "request for record check" form to the attorney general ~~before or when the person begins temporary~~ within ten calendar days of the first day of employment. If the attorney general determines that a fingerprint card or special authorization form, or both, are necessary, the attorney general shall provide ~~this card or form, or both,~~ the required documents to an organization or distributor which shall submit the ~~card or form, or both,~~ completed documents to the attorney general within ten days from ~~when the card or form, or both, were~~ the date received. An organization or distributor may only request a record check of a person who has a written promise of employment or who is temporarily employed pending the result of the record check. A person shall attest to the accuracy of the information on the form and authorize the attorney general to release information on any criminal record found, including a copy of the bureau of criminal investigation's criminal history record information, to an organization or distributor which requested the record check.
3. For the purpose of this section, the definition of an "employee" is:
 - a. A person who directly operates games on a site;
 - b. A person who is a shift or gaming manager;
 - c. A person who is employed by a bar that is not operated by an organization, and who is authorized by an organization under subsection 4 of section 99-01.3-12-02 to withdraw currency or a drop box from a pull tab or bingo card dispensing device;
 - d. A person who places a deal of pull tabs or bingo cards in a dispensing device, removes currency from the device, or reimburses a bar for redeemed pull tabs or bingo cards;
 - e. A person who is a member of a drop box cash count team; or
 - f. A person who directly sells or distributes gaming equipment for a distributor.
4. These employees of an organization are not required to have a record check:
 - a. A volunteer, except a gaming manager or person who is a member of a drop box cash count team;

- b. An employee who is sixteen or seventeen years of age;
 - c. An employee who has an expired work permit and who continues to be employed by the same organization or distributor that the person was employed by when the work permit expired;
 - d. An employee who has had a record check done and, within one year of the record check, has become reemployed by the same organization or employed by a different organization, distributor, or bar than the person was employed by when the record check was done, and who provides the notification copy of a "request for record check" form and, if applicable, a copy of the bureau of criminal investigation's criminal history record information, to the new employing organization, distributor, or bar; or
 - e. An employee, other than a gaming manager, who only conducts a calcutta, raffle, poker, or sports pool or is employed by an organization that conducts games on no more than fourteen days during a calendar year.
- 5. The attorney general may require fingerprints of a person. A local law enforcement agency may charge a fee for taking fingerprint impressions.
 - 6. The fee for a record check is ~~thirty~~ fifteen dollars and is not refundable. However, if a federal agency or local law enforcement agency has done a record check, the attorney general may waive the fee. The fee must be remitted by an organization, distributor, or person with the request form.
 - 7. Unless a federal or local law enforcement agency conducts a record check, the attorney general shall do the record check and provide a copy of the "request for record check" form to an organization or distributor which requested the record check and the person on whom the record check was done. This copy must indicate whether a criminal record was found or not found. If a criminal record is found, the attorney general shall also provide an organization or distributor and person with a copy of the bureau of criminal investigation's criminal history record information. An organization or distributor shall review this report to determine whether a person is eligible for employment as an employee according to subdivision a or b of subsection 5 of North Dakota Century Code section 53-06.1-06.
 - 8. If a person is not eligible for employment but has been temporarily employed pending a record check, an organization or distributor, within five days of receiving the copy of the "request for record check" form, shall terminate the person's employment. This period cannot be extended.

9. An organization or distributor shall retain the copy of a "request for record check" form and criminal history record information ~~for one year from the end of the month in which a person voluntarily or involuntarily separated from employment or had not been temporarily employed pending a record check or local law enforcement licensing document~~ for the time period prescribed by federal law.
10. If a person, while employed by an organization or distributor, pleads guilty to or has been found guilty of a felony or misdemeanor offense referenced by subdivisions a and b of subsection 5 of North Dakota Century Code section 53-06.1-06, the person must immediately notify the organization or distributor. Upon notification, an organization or distributor, within five days, shall terminate the person's employment unless the person received a deferred imposition of sentence or deferred prosecution and has fully complied with the terms of the deferral.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-02-03. Restrictions and requirements.

1. An employee shall wear an identification tag while working in the gaming area of a site. The tag must clearly display a person's first name, which may be the employee's middle name or a shortened form of a proper name, and first initial of the last name or the person's identification number, and organization's name. The tag must be worn on the upper one-third of a person's body. An organization shall provide a tag to a person and is equally responsible with the person that the tag is properly displayed.
2. An organization shall have the gaming law; chapter 99-01.3-02, general rules; chapter 99-01.3-03, accounting rules; and the rules chapter of each game type conducted at a site available in the gaming area for review by any person.
3. An organization shall have a policy manual on its conduct and play of games in the gaming area at a site available for review by any person. The manual must include policies for resolving a question, dispute, or violation of the gaming law or rules. The manual cannot include internal controls.
4. An organization shall maintain a list of all employees on a site, including their name, address, and telephone number. The list must be safeguarded and be available to the attorney general and law enforcement officials.

5. An organization shall disclose or make available to players a description of the "gaming area" of a site authorization for applying subsection 1 and sections 99-01.3-04-03(1)(f), 99-01.3-06-02(3)(d), 99-01.3-08-06(3), 99-01.3-12-02(3)(c), and 99-01.3-12-04(2)(c).
6. An organization's top official shall provide to the governing board and membership in writing, or by electronic publication method, each quarter information on an organization's adjusted gross proceeds; cash profit; cash long or short; net proceeds; excess expenses; reimbursement of excess expenses; and, for a fraternal, veterans, or civic and service organization, a list of eligible uses. This information and how it was provided must be included in an organization's records. If an administrative complaint is issued to an organization, the top official shall disclose the allegation, in writing, to the board within seven days from the date the complaint was received. If an allegation is substantiated, the top official shall disclose to the board and membership, in writing, the allegation and sanction imposed within ninety days of the final disposition of the complaint.
7. A person may not modify a state gaming stamp or flare, including a last sale prize. An organization may not, independent of a distributor, add or delete a last sale prize.
8. A person under the age of twenty-one may not conduct or play games, except bingo and raffles, and, at an alcoholic beverage establishment, may not be a member of a drop box cash count team. An employee under the age of eighteen may not count drop box cash. A person under the age of sixteen may not conduct bingo.
9. An employee or a bar employee may not use inside information or provide inside information to any person.
10. The attorney general may waive a rule when it is for the best interest of the gaming industry and public.
11. If an organization does not plan to reapply for a license for the next licensing period or relinquishes a license, it shall return its unplayed games with state gaming stamps to the attorney general or distributor. An organization may not destroy an unplayed or unreported game without permission of the attorney general.
12. When an organization disposes played deals of pull tabs and bingo cards, club specials, prize boards, tip boards, seal boards, and punchboards, the disposal method must assure complete destruction.
13. If an organization is forced to dispose accounting records or game pieces damaged in a natural or extraordinary disaster, it shall document

each item disposed and provide a copy of the documentation to the attorney general within fourteen days before the disposal.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-02-04. Equipment acquisitions and use.

1. An organization shall procure gaming equipment only from a licensed distributor. However, an organization may:
 - a. Buy raffle tickets with a detachable stub from a printer or buy double admission tickets from any vendor;
 - b. Buy, lease, or sell a used pull tab or bingo card dispensing device from or to a distributor or another organization provided that a distributor records the transaction on a sales invoice; or
 - c. Buy, sell, rent, lend, exchange, or give its own used playing cards, jar bar, twenty-one or poker table, bingo hard cards, bingo machine, flashboard, dealing shoe, discard holder, poker chips, chip tray, paddlewheel, or paddlewheel table from or to any organization. An organization may not sell or otherwise provide any of these particular items or any other item of gaming equipment, except playing cards, to any other person unless approval is obtained from the attorney general.
2. An organization may not use or knowingly permit its gaming equipment to be used for an illegal purpose.
3. An organization or an employee may not conduct or possess a deal of pull tabs or bingo cards, club special, tip board, seal board, prize board, punchboard, sports-pool board, calcutta board, or series of paddlewheel ticket cards unless its flare has a gaming stamp.
4. If an organization or distributor suspects that a deal of pull tabs or bingo cards, club special, tip board, prize board, or punchboard may be defective, the organization or distributor shall comply with guidelines prescribed by the attorney general.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06, 53-06.1-14

99-01.3-02-06. Rental agreement.

1. A rental agreement must be signed and dated by a lessor and organization.
2. An agreement must contain:
 - a. Term of the agreement which must be on a fiscal year basis from July first to June thirtieth or, if a site authorization is for a shorter period, the term is for the shorter period. Except for a site where bingo is the primary game, an agreement may not exceed three years;
 - b. Monetary consideration;
 - c. The inclusion of this statement with proper selections made:

"The lessor agrees that the (lessor), (lessor's) spouse, (lessor's) common household members, (management), (management's) spouse, or an employee of the lessor who is in a position to approve or deny a lease may not conduct games at any of the organization's sites and, except for officers and board of directors members who did not approve the lease, may not play games at that site. However, a bar employee may redeem a winning pull tab or bingo card involving a dispensing device and sell raffle tickets or sports pool chances on a board on behalf of an organization";
 - d. If an organization provides a lessor with a temporary loan of funds for redeeming winning pull tabs or bingo cards involving a dispensing device, a statement that the lessor agrees to repay the entire loan immediately when the organization discontinues using a device at the site; and
 - e. Statements that:
 - (1) Bingo is or is not the primary game conducted;
 - (2) Twenty-one or paddlewheels, or both (involving a playing table), is or is not conducted and the number of tables on which the rent is based, including the number of tables on which a wager over five dollars is accepted;
 - (3) Pull tabs is or is not conducted;
 - (4) The rental agreement is automatically terminated, at a lessor's option, if an organization's license is suspended for more than fourteen days or revoked; and
 - (5) An oncall, temporary or permanent employee, except a bar employee defined by subsection 3 of section 99-01.3-02-01 will not, directly or indirectly, conduct games at the site as

an organization employee on the same day the employee is working in the area of the bar where alcoholic beverages are dispensed or consumed.

3. Rent must be a fixed dollar amount per month.
 - a. A participatory or graduated rate arrangement based on gross proceeds or adjusted gross proceeds is prohibited.
 - b. If bingo is the primary game and it is not conducted through a dispensing device or if a site is leased by an organization that has the alcoholic beverage license for that site, the monthly rent must be reasonable. Factors include time usage, floor space, local prevailing rates, and available sites and services. An organization may pay seasonal expenses, such as snow removal, air-conditioning, and heating, to a vendor.
 - c. If bingo is not the primary game or if bingo is the primary game and it is conducted through a dispensing device, the maximum monthly rent must be according to subsection 5 of North Dakota Century Code section 53-06.1-11. Special considerations are:
 - (1) If two or more organizations conduct twenty-one or paddlewheels, or both, involving a table and pull tabs for less than a month at a temporary site which is a public or private premise, or if two or more organizations are issued site authorizations to conduct games at a site on different days of the week, the maximum monthly rent, in the aggregate, may not exceed the limit set by subsection 5 of North Dakota Century Code section 53-06.1-11; and
 - (2) If a raffle, calcutta, sports pool, or poker is conducted with twenty-one, paddlewheels, or pull tabs, no additional rent is allowed.
 - d. Except for applying subsection 3 or 4 of section 99-01.3-03-04, and additional rent paid to a lessor for simulcast racing, an organization or employee may not pay, ~~nor may a lessor accept~~, any additional rent or expense, from any source, or for any other purpose, including office or storage space, snow removal, maintenance or cleaning fees, equipment, furnishings, entertainment, or utilities. Except for a leased site at which bingo is the primary game conducted, an organization may not pay for any capital or leasehold improvements or remodeling.
4. If there is a change in the monthly rent or any other material change to a rental agreement, the agreement must be amended and a copy

of it ~~postmarked or hand-delivered to~~ received by the attorney general before its effective date.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06, 53-06.1-07.4

99-01.3-02-08. Currency of play, credit play, and borrowing from gaming funds.

1. Play of a game must be in United States currency. Play of a game must be on a cash basis. An organization may, by policy, accept checks and allow the use of debit cards. No credit may be extended to a player. The consideration to play a game must be paid before play. An employee may not loan money to a player, accept a postdated check, allow a player to alter a check, permit a player to establish an account by depositing cash for making periodic withdrawals, or any similar practice. An organization may allow a player to buy back a check with cash and may return a player's check to the player as part of a prize payout but may not unnecessarily delay the bank deposit of that check.
2. An employee may not borrow gaming funds as a personal loan or substitute a personal check for gaming funds.

History: Effective May 1, 1998; amended effective July 1, 2000; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-02-10. Training and acknowledgment of the gaming law and rules.

1. A gaming manager, and an employee who is principally responsible for auditing closed games or daily activity or does bookkeeping, who have no previous gaming-related experience in those capacities, within thirty days of employment ~~and within thirty days of each promulgation of rules,~~ shall request training from the attorney general. The training must include the gaming law and rules, recordkeeping, internal control, and tax return.
2. An employee shall read and acknowledge in writing, within thirty days of employment and the effective date of new gaming laws or rules, that the person has read and understands the provisions that relate to the person's job duties. The attorney general shall designate the provisions to be read. An acknowledgment must be dated, reference the provisions, and be part of the person's personnel file.

3. This section does not apply to an organization that only conducts a raffle, calcutta, poker, paddlewheels described by subsection 1 of section 99-01.3-11-01, sports pool, or to an independent contractor.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-02-11. Independent contractor services restricted. Only an organization member, employee, including an employee of a temporary employment agency, or member of an auxiliary to an organization may manage, control, or conduct games. An organization may have an independent contractor, including another organization, provide ~~only the following~~ specific gaming-related services. The organization shall ensure that the independent contractor complies with the gaming law and rules and may allow assistance with the following:

1. Perform audit services, including auditing closed games and daily activity, do interim audits of games, verify bank deposits, and reconcile inventory of gaming equipment and cash banks;
2. Perform accounting and bookkeeping services, including recording receipts and disbursements, processing payroll and payroll reports, reconcile bank statements, write checks, and prepare budgets, financial statements, and tax returns. However, an independent contractor may not have signatory authority of a bank account;
3. Train personnel how to conduct games and operate a dispensing device;
4. Repair and store a dispensing device;
5. Access, store, and review recorded video;
6. Store records and played games;
7. Take a locked bank bag or locked drop box to a financial institution provided the independent contractor has no access key; ~~and~~
8. An independent contractor that is a security company, security agency, accounting firm, or financial institution may count drop box cash; and

9. Provide consulting services to an organization for a poker occasion provided that the independent contractor does not manage, control, or conduct the game.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

CHAPTER 99-01.3-03

99-01.3-03-01. Accounting records and system of internal control.

1. ~~Except as otherwise provided by rule, an~~ An organization shall retain purchase invoices, receipts, accounting and bank records, including receipts documenting eligible uses and solicitations for net proceeds, for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule.

2. ~~Except for an organization that has gross proceeds of twenty-five thousand dollars or less, only conducts a calcutta, raffle, sports pool, paddlewheels described by subsection 1 of section 99-01.3-11-01, or poker, or is involved only in conducting no more than two events during a fiscal year of July first through June thirtieth and each event lasts no more than fourteen calendar days, a~~ A governing board of the organization shall establish a written system of internal control, comprised of accounting and administrative controls. An organization may not permit any unauthorized person to review as determined by the governing board from reviewing this system, except the attorney general, law enforcement officials, authorized employees, and an adviser. If the attorney general determines that a system of internal control is inadequate, an organization shall remedy address the inadequacy. This subsection does not apply to an organization that has gross proceeds of twenty-five thousand dollars or less, only conducts a calcutta, raffle, sports pool, paddlewheel described by subsection 1 of section 99-01.3-11-01, or poker, or is involved only in conducting no more than two events during a fiscal year of July first through June thirtieth and each event lasts no more than fourteen calendar days.

3. Accounting controls must include procedures and records that achieve these objectives:
 - a. Transactions are executed as authorized by management;
 - b. Gaming activity is properly recorded;
 - c. Access to cash, games, and other assets is permitted as authorized by management; and
 - d. Assets recorded on records are periodically compared to actual assets and any differences are resolved.

4. Administrative controls must describe the interrelationship of employee functions and their division of responsibilities.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-03-02. Gaming account.

1. An organization shall maintain ~~at least one all~~ gaming account ~~accounts~~ at a financial institution ~~institutions~~ located in North Dakota. Except as provided by subsection 3, ~~this account~~ these accounts must be used for depositing gaming funds and transferring net proceeds to a trust account. Transfers must be made by the last day of the quarter following the quarter in which the net proceeds were earned. The amount transferred must be for an amount equal to or greater than the adjusted gross proceeds, less gaming and excise taxes, and less the greater of actual or allowable gaming expenses for the quarter. The gaming account may be used for payment of expenses. An organization may transfer funds to its general account for payment of expenses. If an organization is not required to maintain a trust account, a disbursement of net proceeds to an eligible use must be payable to the ultimate use or recipient. A payment may be made by electronic transfer.
2. Interest earned is other income. A service fee is an expense.
3. Except to reimburse the account for a negative imbalance as required by section 99-01.3-03-05, and to deposit raffle nongaming funds, bingo dauber receipts, fees from players who use bingo card marking devices, prizes paid by an insurance company to an organization for payment to a player, and sales tax, the organization may not deposit nongaming funds into a gaming account unless approved by the attorney general.
4. If an organization buys a qualifying item of video surveillance equipment according to subsection 2 of section 99-01.3-08-04 and later sells or rents the item, it shall make a record of the transaction, deposit the gross receipts or rental income directly into its gaming account, and make a proper adjustment on the tax return.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-11

99-01.3-03-03. Trust account.

1. ~~Unless an organization only conducts a calcutta, raffle, sports pool, paddlewheels described by subsection 1 of section 99-01.3-11-01, or poker or a combination of those games, or is involved in conducting no more than two events during a fiscal year of July first through June thirtieth and each event lasts no more than fourteen calendar days, an organization shall maintain at least one trust account at a financial institution located in North Dakota. Except to reimburse the account for a negative imbalance and as provided by subsection 13 of section 99-01.3-14-01, this account must receive only funds from a gaming account. This account is~~ An organization shall maintain all trust accounts at financial institutions located in North Dakota. If an organization only conducts a calcutta, raffle, sports pool, paddlewheel described by subsection 1 of section 99-01.3-11-01, or poker or a combination of these games, or is involved in conducting no more than two events during a fiscal year and each event lasts no more than fourteen calendar days, an organization is not required to maintain a separate trust account and may use the gaming account for the disbursement of eligible uses. Trust accounts are used only to disburse net proceeds to eligible uses and must receive only funds from a gaming account, except to reimburse the account as required by section 99-01.3-03-05 and as provided by subsection 13 of section 99-01.3-14-01. A transfer of net proceeds to another trust account or to a closely related organization is not a disbursement of net proceeds. Net proceeds cannot be pledged as collateral for any loan.
2. An organization shall disburse net proceeds within a reasonable period.
3. ~~Except for transferring funds to another trust account, an~~ An organization may not transfer funds from a trust account to any other bank account, except for transferring funds to another trust account or to reimburse its general account for compensation that qualifies as an eligible use. A disbursement must be payable directly to the ultimate use or recipient. However, an organization may make a payment directly to a credit card company for charges on a credit card if the credit card use is restricted to eligible uses and may only reimburse its general account for compensation that qualifies as an eligible use and which is paid from the general account provided that an organization can identify purchases that qualify as an eligible use from other purchases. A reimbursement must be documented by a supporting schedule. A payment may be made by electronic transfer.
4. If an organization invests net proceeds in a certificate of deposit, bond, stock, mutual fund, or other marketable securities, all income earned, including interest, dividends, and capital gains, must be reported each quarter as an adjustment on a tax return and be disbursed to an eligible use. An actual loss on an investment may not be deducted on a tax return. A service fee is an adjustment to the account's balance.

5. For reporting purposes, an organization may elect to report the gain in market value of the accounts outlined in subsection 4. Adjustments can be made for decreases in market value; however, such decreases cannot reduce the account's value below its adjusted basis. Electing to report securities at market value must be consistently applied each quarter.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-03-06. Gross proceeds, IOUs, documenting cash and chip banks.

1. Gross proceeds for a game must be separately maintained while the game is conducted. An organization shall use a separate cash bank for each game. However, the cash banks for twenty-one, and paddlewheel activity described by subsection 2 of section 99-01.3-11-01, may be combined and the cash banks for pull tab games at a site may be combined, if approved by the attorney general. If an employee needs to establish or replenish a cash bank by withdrawing funds from the gaming account, the employee shall execute a withdrawal by check or authorized other withdrawal method and reference the specific game's or games' name, other game type, or the combined cash bank. If a cash bank needs replenishment and another game's or games' specific game or other game type's cash bank, cash reserve bank, or nongaming other funds from nongaming sources are used as a source of cash, an IOU form must be used to record the loan and payback. An IOU form must include:
 - a. The source and destination of the funds;
 - b. For a club special, prize board, tip board, seal board, series of paddlewheel ticket cards, and punchboard, the game's gaming stamp number;
 - c. Amount and date of loan and repayment; and
 - d. Initials of a cash bank cashier or an employee for each transaction.
2. An organization shall document each game's daily starting and ending cash on hand, including a cash reserve bank. Unless there is only one employee on duty when a site opens or closes, two persons shall participate in the cash count in the presence of each other. After completing and documenting the cash count, both persons shall initial the record.

3. An organization shall document the daily starting and ending chip banks for casino and betting chips including, on the date of a poker event, no-value poker chips. The chip banks for twenty-one, and paddlewheel activity described by subsection 2 of section 99-01.3-11-01, may be combined. Unless there is only one employee on duty when a site opens or closes, two persons shall participate in the count of the chips in the presence of each other and record the count by denomination of chip or color of no-value chips. After completing and documenting the chip count, both persons shall initial the record.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-03-08. Record of win.

1. If An employee shall prepare a record of win if a player wins a last sale prize or, a seal prize, a cash prize greater than two hundred dollars, a merchandise prize that has a retail price exceeding two hundred dollars, or a donated merchandise prize with a fair market value exceeding two hundred dollars, an employee shall record the win or wins a cash prize but receives a partial payout of the prize in cash and the remainder by check. If a pull tab has two or more winning prize patterns, the requirement is based on the value of each prize pattern. A record of win must be completed for the total prize even if a player splits the prize with another person. The record must may be a check drawn from the gaming account, a numbered receipt, or the flare of a sports-pool board, calcutta board, club special, tip board, prize board, punchboard, or seal board. A bar employee shall print this information on a receipt or an employee shall print this information on a check, receipt, or flare, unless it is already provided:
 - a. Name of the site;
 - b. Game type and, by game type:
 - (1) Bingo, excluding a dispensing device - Date of the session, game number, cash prize amount or description of a merchandise prize and retail price, and date of prize payout if different from the date of the session.
 - (2) Bingo, involving a dispensing device - Name of the game, cash prize amount, date of activity, and game serial stamp number.
 - (3) Raffles - Date of the drawing, winning ticket number, cash prize amount or description of a merchandise prize and retail

price, and date of prize payout if different from the date of the drawing.

- (4) Pull tabs, including a dispensing device, punchboards, club special, tip board, seal board, and prize board - Name of the game, cash prize amount or description of a merchandise prize and retail price, date of activity, and game serial stamp number. For a game with a last sale prize or a seal prize, the game stamp number should correspond with the respective deal's flare.
- (5) Sports pools - Date of the event, cash prize amount, date of prize payout, and gaming stamp number.
- (6) Twenty-one or poker tournament - Date of the tournament, cash prize amount, or description of a merchandise prize and retail price.
- (7) Calcuttas - Date of the event, cash prize amount, date of prize payout, and gaming stamp number;

c. A player's full name and address:

- (1) If the player is present but not personally known by a bar employee or an employee, this information must be recorded from a pictured driver's license or tribal, government, or military identification;
- (2) If the player is present but does not have one of these pictured identifications, a bar employee or an employee shall record the player's full name from another form of identification or mail the prize to the player; or
- (3) If the player is not present, verification of this information is not required and the prize must be mailed; and

d. Initial of a bar employee or an employee.

2. After a record of win is completed at a site, a player shall sign and date it. However, this rule does not apply to a prize mailed to a player.
3. Unless a prize is for a last sale prize feature, a bar employee or an employee shall print, in ink, the check or receipt number on a pull tab, punchboard punch, or a bingo card involving a dispensing device.
4. A player who has actually won a prize shall claim the prize. A bar employee or employee may not falsify or permit a player to falsify a record of win or enable a player to conspire with another person to have the other person claim a prize. If a bar employee or employee

determines that a player has falsified or attempted to falsify a record of win before the prize payout, the bar employee or employee shall deny the player the prize and notify the attorney general and local law enforcement agency.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-11

99-01.3-03-09. Inventory records of games, paper bingo cards, tickets, cash banks, and chips and reconciliation.

1. An organization shall maintain master and site inventory records of all deals and games that have a state gaming stamp affixed to their flares. The master records must include the sales invoice number, date received, name of game, dates of issuance to and received from a site, site name, period played, and quarter tax return on which reported, by gaming stamp number. The site records must include the gaming stamp number, date received, date placed, and date closed, by site and name of game. If an organization has only one site where inventory is stored, it may combine the master and site inventory records. ~~Each quarter~~ Annually an organization shall reconcile its inventory records of all deals and games that have a state gaming stamp affixed to their flares that are recorded as being in play and in inventory as unplayed to the items that are actually in play and in inventory. A person shall count these items that are actually in play and in inventory, compare this count to the inventory records, and resolve any difference.
2. An organization shall maintain master and site inventory records of paper bingo cards. The master records must include for each primary color ~~and or serial number.~~ the type of card, the sales invoice number, date received, ~~serial number,~~ number of cards bought, dates of issuance to a site, and site name, or include information prescribed by a method approved by the attorney general. If an organization has only one site where inventory is stored, it may combine the master and site inventory records. The site records must include site name, primary color ~~and or serial number.~~ type of card, ~~serial number,~~ quantity received, date received, and quantity issued and returned for each session, or include information prescribed by a method approved by the attorney general. ~~Each quarter~~ Annually an organization shall reconcile its inventory records of paper bingo cards that are recorded as being in inventory to the cards that are actually in inventory. A person shall count these items that are actually in inventory, compare this count to the inventory records, and resolve any difference.
3. An organization shall maintain master and site inventory records of rolls of tickets. The record must include the date each roll is acquired, ticket color, beginning and ending ticket numbers, and number of tickets

on the roll. ~~Each quarter~~ Annually an organization shall reconcile its inventory of rolls of tickets. This reconciliation must include verification of the starting ticket number and total number of remaining tickets that are recorded as being at the home office and site to the rolls of tickets that are actually on hand. If an organization has only one site where inventory is stored, it may combine the master and site inventory records. A person shall count the rolls of tickets at the home office and site, compare this count to the inventory records, and resolve any difference.

4. An organization shall maintain a master record of ideal cash bank amounts and account for permanent increases or decreases. For each cash bank, the record must include the site, game type, game identifier, and amount. When a cash bank is started or when the ideal amount is permanently increased or decreased, the date, check number, amount, source or destination of the funds, and updated ideal cash bank amount must be recorded. ~~Each quarter~~ Annually an organization shall reconcile its master cash bank records to the actual cash banks. A person shall count the cash banks, compare the count to the current ideal cash bank amount recorded on the record, and resolve any difference.
5. An organization shall maintain casino and betting chip master and site inventory records. The records must include the dates chips are acquired, transferred to, and received from a site and running totals, by value of chip. ~~Each quarter~~ Annually an organization shall reconcile its inventory of chips that are recorded as being at the home office and site to the chips that are actually in inventory. If an organization has only one site where inventory is stored, it may combine the master and site inventory records. A person shall count the chips in inventory at the home office and site, compare this count to the inventory records, and resolve any difference.
6. The count and reconciliation must be done by a person who does not have access to deals, games, paper bingo cards, rolls of tickets, cash banks (and who does not have sole signatory authority of the gaming account), or chips. It must be documented, including the name and title of the person who does the count and reconciliation, date and procedure performed, result, corrective action taken, and initials of that person.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-03-10. Bank deposit and audit.

1. The cash profit, less a documented increase or plus the decrease in the starting cash on hand for the next gaming activity, plus cash

and merchandise prizes paid by check and cost of coins for a prize board, must be deposited in the gaming account by the third banking day following the day of a bingo session; club special, prize board, tip board, seal board, or punchboard is removed from play; sports-pool game; calcutta event; poker occasion; day's or interim period's pull tab, twenty-one or paddlewheel activity; or closed bingo prize flare involving a dispensing device. However, the receipts for a raffle and, calendar or master sports-pool board, or paddlewheel described by subsection 1 of section 99-01.3-11-01 must be deposited in the gaming account by the third banking day following receipt of the cash by the person responsible for the activity.

2. For a day's pull tab activity, bingo session, raffle drawing, poker occasion, twenty-one and paddlewheel activity, and interim period's pull tab or bingo activity involving a dispensing device, a deposit slip or receipt must reference a site, name of the game, game type, date of activity, and deposit amount. The deposit amount for twenty-one, and paddlewheel activity described by subsection 2 of section 99-01.3-11-01, may be combined. For a club special, prize board, tip board, seal board, punchboard, and series of paddlewheel ticket cards, a deposit slip or receipt must reference a site, name of the game, date removed from play, deposit amount, and gaming stamp number. For a sports-pool board or calcutta board, a deposit slip or receipt must reference a site, date of the event or auction, deposit amount, and gaming stamp number. For all game types, an employee who prepares a deposit shall initial the bank deposit slip. If another employee makes the bank deposit and has access to the cash, the employee shall also initial the bank deposit slip.
3. If an organization prepares a deposit slip for more than one type of game, it shall record on the deposit slip or a supporting schedule by each game type, the information required by subsection 2. A supporting schedule must reconcile to a validated bank deposit slip or receipt. A validated bank deposit slip or receipt and any supporting schedule must be included with the accounting records ~~of each game type~~. If a bank does not return a validated bank deposit slip that contains information required by subsection 2, an organization shall prepare a duplicate deposit slip, make a copy of it, or prepare a supporting schedule that reconciles to the bank deposit amount.
4. For a bank deposit, a person shall record the amount to be deposited on the game's accounting record and retain the copy of a two-part bank deposit slip and any supporting schedule ~~with the accounting record~~. This person shall forward the accounting record, copy of the bank deposit slip, and any supporting schedule ~~directly~~ to a bookkeeper. A second person shall take custody of the bank deposit funds and the original of the bank deposit slip and take them to a financial institution or arrange for the funds to be deposited. If, before the bank deposit is made, the custody of bank deposit funds is transferred ~~directly~~ from a

person to another person, face-to-face, and the cash is accessible to be counted, both persons shall participate in a count of the cash in the presence of each other and resolve any difference. After completing and documenting the cash count, both persons shall initial and date the record. The person who makes the bank deposit shall forward a validated bank deposit slip or receipt directly to a bookkeeper. An organization shall comply with this rule unless it uses another bank deposit procedure which has proper accounting control.

5. If an employee prepares or has custody of a bank deposit which is not scheduled to be immediately deposited, the employee shall safeguard the funds.
6. An employee who did not have access to the cash to be deposited shall, within a reasonable time, verify that the amount recorded on a daily or interim accounting record to be deposited was actually deposited according to a bank statement. The employee shall document the verification by initialing the accounting record and dating it. If more than one deposit amount is recorded on an accounting record, the employee shall initial the record for each verified deposit amount and date the record.
7. A closed game or daily activity must be audited, within a reasonable time, by a person who did not conduct the game and who did not have sole access to the total receipts or cash profit for the game's or day's activity. This person may not have sole signatory authority of the gaming account. A person who audits a closed game or daily activity shall verify the number and value of unsold chances, gross proceeds, number and value of prizes, adjusted gross proceeds, and cash profit. If the audit reveals an irregularity, the person shall notify the appropriate organization representative.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-04

99-01.3-04-01. Bingo.

1. This chapter applies to bingo not involving a bingo card dispensing device.
2. "Bingo" is when a player buys a card or uses a bingo card marking device and marks squares, or a radio frequency signal marks squares on a marking device, as a caller announces a letter and number or only a number for speedball bingo. Speedball bingo is a game in which a bingo caller announces the drawn numbers in a fast manner. Except for a bonanza bingo or a game that has a certain number or all of its numbers predrawn, a winning player of a game is the player who first covers a predetermined pattern of squares by matching letters and numbers on a bingo card with balls drawn and called for that or another game and the player has timely called bingo. Except for a game that has all of its numbers predrawn, there must be a winning player. Bonanza bingo is a game in which a bingo caller predraws a certain quantity of balls before a session begins for a predetermined pattern and players buy and play cards throughout the session. During the session when the bonanza bingo game is conducted, unless a player has already won, the caller will draw additional balls until a player wins the game. In a game in which a bingo caller draws a certain quantity of balls for the game before a session begins for a predetermined pattern, players may buy and play the cards throughout the session.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-04-03. Conduct and play.

1. These rules and information must be disclosed or made available to players:
 - a. A person may not separate a paper card when there are two or more faces on a sheet;
 - b. A person under eighteen years of age may not play bingo unless an individual, eighteen years of age or older, accompanies a minor when buying a bingo card or package and throughout the session. The adult may not be an employee on duty. This rule does not apply if a person under twenty-one years of age is not allowed on the site or an organization has a permit or prize structure that does not exceed the limit of a permit;

- c. If an organization does not restrict duplicate paper cards from being in play for a game, it shall disclose or make available that information to all players before their purchase of cards or packages;
 - d. The actual letter and number on a ball drawn or freely awarded is official;
 - e. If a person knowingly uses a fraudulent scheme or technique to cheat or skim involving bingo, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both;
 - f. A bingo card is void if it is taken outside the gaming area; and
 - g. If a player attempts to falsify or falsifies a record of win, the prize is forfeited.
2. These policies must be disclosed or made available to players:
- a. A policy of when an organization may cancel a bingo session;
 - b. A policy that if a player has more than one bingo on one card or on two or more cards for a game, whether it is considered as one bingo or more than one bingo for splitting a prize with another winning player;
 - c. A policy that a bingo is timely called by a player when, on the last number called, the player calls the word "bingo" or other required word before the bingo caller announces the whole letter and number of the next ball to be called, or other policy;
 - d. A policy on sharing a prize by two or more winning players on identically or differently priced cards. A policy must include the following except that an organization may award a minimum prize:
 - (1) If a prize is cash and all winning players bingo on identically priced cards, the cash prize must be divided equally. An organization may round fractional dollars.
 - (2) If a prize is cash and the winning players bingo on differently priced cards, an organization shall award each winning player:
 - (a) The designated prize;
 - (b) An equal share of the designated prize; or

when an organization does not provide such a card. An organization may inspect and reject the card.

5. An employee may not sell or award a gift certificate as a prize unless:
 - a. A certificate is accounted for when it is sold or awarded. An employee shall issue a certificate to the purchaser or player and retain a copy or stub of the certificate with the daily records and record the certificate on a register to document the sale. An organization shall recognize a sale of a certificate as gross proceeds on the tax return for the quarter in which it was sold. A certificate awarded as a prize has no cash value. A certificate must be used to buy only a bingo card or package;
 - b. A register is maintained which accounts for all certificates sold or awarded at a site. A register must include, for each certificate, a consecutive control number, selling price (if applicable), dates issued and redeemed, sites at which it is issued and redeemed, and initials of the employees who issue and redeem the certificate; and
 - c. A redeemed certificate is signed by a player and retained by an organization with the daily accounting records. A player is issued a bingo card or package at the site when the certificate is redeemed.
6. If an organization changes a publicly announced bingo program for a session in which a potential prize or the number of games is reduced, an employee shall notify a player of the change before the player buys a card.
7. If an organization sells two or more differently priced cards or packages for a game, it shall use a different type, color, ~~or~~ serial number ~~of each card, or a distinctive identifiable feature~~ for each differently priced card or package ~~or use a method approved by the attorney general~~. An organization may not use the same serial numbered paper bingo cards for more than one game or group of games during a bingo session, unless the face of a card is a different color or a card audit tracking number is used.
8. If an organization accepts a discount coupon, the redeemed coupon must contain the dollar value or percentage discount and be signed by a player. An employee shall write the value of the bingo card or package purchased on the face of the coupon unless the value is already stated, record the date on the coupon or on a group of coupons for a session, and retain the coupon with the daily records. The value of a player's one or more coupons must be less than the value of the card or package bought.

9. If an organization accepts a donated item in exchange for a discount, an employee shall account for the discount on a register as part of the daily records. A discount must be less than the value of the card or package bought. A register must contain:
 - a. Bingo session and date of the session;
 - b. Amount of the discount;
 - c. Value of the bingo card or package bought;
 - d. Signature of the player;
 - e. Total amount of bingo card or package discounts for the session; and
 - f. Date and initials of the cashier.

10. A card or package must be bought on a site immediately before the start of a game or during a session. However, an organization may presell a card or package for a special session that involves a bingo prize or prizes that equal or exceed ten thousand dollars for the session provided the organization:
 - a. Uses a consecutively numbered two-part receipt to register a player who prepays. One part is issued to a player who shall redeem the receipt to receive the card or package. The second part is retained by the organization to account for the gross proceeds;
 - b. Separately accounts for the gross proceeds and reports it on a tax return for the quarter in which the game is conducted; and
 - c. Provides a card or package to the player before the start of the session that day.

Except for a bonanza bingo or a game that has all of its numbers predrawn, no card may be sold for a game which is in progress or ended. If a paper bingo card is included in a package for a game in progress or ended, the card must be withdrawn and voided or destroyed. An employee may exchange a purchased package for another package if the employee accounts for all the cards of the first package and a session has not started.

11. An organization may allow a player to use a bingo card marking device provided by the organization that marks an electronic card image of a purchased card as follows:

- a. A device cannot be reserved for a player unless a player is disabled. An organization shall provide each player an equal opportunity to use the available devices on a first-come, first-served basis. A device cannot be issued through a floorworker;
- b. A device must be used only at a site where the site system is located and the session is being conducted;
- c. A device must be rented for a fixed amount, regardless of the price for a card or package or number of cards played through the device, or provided free to a player for the player's temporary use during the session;
- d. No player can use more than one device at a time during a session;
- e. No player can play more than seventy-two single-faced cards per game on a device and cannot choose or reject downloaded cards;
- f. An organization shall use paper bingo cards in the session that are of a series different than the cards downloaded in the devices;
- g. If a card or package may be used in a device and in paper form, it must be sold for the same price. An organization may sell a special card or package to a player for use only in a device. The organization may require a player to buy a minimum-priced card or package to use a device;
- h. If a player rents a device while a game for that session is in progress, the player may not play that game and a cashier shall record on the player's receipt that the specific game number is void;
- i. An organization may print a facsimile of a winning card and post it for players to inspect;
- j. A player shall may use an input function key on a device or an organization may use a radio frequency signal to mark each number as it is called. When a player inputs a number or an organization sends a radio frequency signal, a device may automatically mark all the player's cards that contain that number;
- k. If a player has a winning card, the player shall:
 - (1) Timely call bingo according to subdivision c of subsection 2 and it must be by a method other than through a device; and
 - (2) Provide the device with the winning card displayed to a floorworker to verify according to subsection 18;

- l. If a player's call of a bingo is disputed or if the attorney general makes a request, an organization shall print the winning card stored on the device;
 - m. An organization shall have one spare device available should a device in use malfunction. If a player's device malfunctions, the player may exchange the device for a spare device. An organization shall restore the player's same cards from the site system;
 - n. An organization may perform routine maintenance on a device; and
 - o. An organization shall back up all of a site system's accounting information for a session on a report or separate electronic media immediately after that session and retain the backup file for three years from the end of the quarter in which the activity was reported on a tax return. The accounting information must comply with subsection 1 of section 99-01.3-16-09.1.
12. After the start of a session, an organization may not refund the purchase price of a card or package unless a site incurs an electrical power loss, there is inclement weather, an organization experiences an extraordinary incident, a session is canceled, or a player has an emergency.
 13. If an organization sells hard cards before each game, during the game an employee shall count the number of hard cards played by all the players to the number recorded as sold. If the comparison reveals an irregularity, the gaming manager shall take corrective action.
 14. An organization may not sell a bingo package that contains a variable number of cards based on each player's ability to play. Each separately priced package must contain a standard number of cards.
 15. If a game has an actual or potential prize valued at five hundred dollars or greater, an employee shall use an electronic bingo card verifier; record in writing the called numbers and the sequence in which they were drawn; or audiotape the bingo caller calling the balls. When a player bingos, an employee shall retain the bingo card verifier record, the written record in writing, or audiotape information, which includes the following and retain these records for three months:
 - a. Game number, winning pattern, type of card (number of faces on a sheet), type of package (regular, premium, super), series (card) number, and last number called; and
 - b. Cash register receipt number, if applicable.

16. ~~Except for speedball bingo or when a monitor or random number generator is used, a~~ A caller shall manually display the letter and number on the ball to players except for speedball bingo or when a monitor or random number generator is used. An employee shall announce the letters and numbers on the balls or displayed by a random number generator in their exact sequence; however, numbers freely awarded do not need to be announced. The caller is also not required to announce all letters and numbers for a game in which the pattern does not require the use of the selected letters or numbers. If a player calls bingo and the bingo is invalid, the next ball called must be in sequence of the balls drawn.
17. A player may bingo more than one time on the same card when an organization conducts continuation games of more than one pattern on the same card.
18. A winning card must be verified by an employee and one neutral player or person unless an electronic bingo card verifier is used. A floorworker may not access a verifier. For a winning card on a bingo card marking device, an employee shall compare the serial number of the device to the receipt for the cards played on that device.
19. An organization may offer a variety of prizes to a winning player who may choose a prize by random selection or chance. A player may win an additional prize by choosing the prize by random selection, by an organization drawing from previous winning players, or playing a game of skill if the player is not required to give anything of value. An organization shall disclose the potential prizes in the bingo program and notify a player of these prizes before the player chooses a prize, has the opportunity to win a prize, or plays a game of skill.
20. An organization may award, as a prize, cash, merchandise, merchandise gift certificate, or gift certificate that can be redeemed for a bingo card or package.
21. An organization may conduct a qualifying game whereby a player wins an opportunity to play in a special game.
22. An organization may award a bonus that is based on a factor incidental to a bingo program if it is disclosed in a program, calendar, or flyer, and announced before a session, and is recorded on a prize register. Factors include a player bingoing on a certain color of card, combination of colored cards, last number called, particular face of a multifaced card, or winning a game on the player's birthday.
23. If a player bingos and an employee determines that the player is playing more bingo cards than were bought, the player's bingo is void.

24. Bonanza bingo and a game that has all of its numbers predrawn must be conducted as follows:
- a. A caller shall initially call a certain quantity of balls. While a caller initially calls the bingo balls or before the caller calls the next continuous number, a player shall verify that the letter and number on the balls drawn are correctly displayed. A posted display must be used for the games, have restricted access, and reference that game;
 - b. A card must be sealed and unpeekable when it is sold;
 - c. An organization may sell or exchange cards throughout a session until sales are closed. If an organization exchanges cards, an employee shall, before the next continuous number is called, fully account for the floorworkers' sales of cards according to section 99-01.3-04-07. A floorworker may not turn in any exchanged card after the accounting is begun;
 - d. If a player bingos before the next continuous number is called, the player wins. Otherwise, an additional bingo ball is drawn until a player bingos. This rule does not apply to a game that has all of its numbers predrawn;
 - e. A game may not extend beyond a session;
 - f. If an organization permits a player to exchange a partially played card for a new card and pay a discounted or exchange price, an employee shall:
 - (1) Validate the date of the session on the card with a mechanical device or rubber stamp. A card validated for a session, but not sold, must be voided. The organization shall use a different color of card for each game conducted at a site during a day;
 - (2) Retain the exchanged cards as part of the daily records for six months;
 - (3) Record the validation date and card color used by session; and
 - (4) Reconcile the cards, accounting for:
 - (a) Number of cards taken from inventory which must be independently counted and verified by two employees who shall initial and date the verification;
 - (b) Number of cards sold;

- (c) Number of cards exchanged, which must be separately maintained for each floorworker. The cards must be recounted by an employee who is not a the floorworker and ~~who did not complete the floorworker sales report~~. The employee who controls the floorworker sales report shall band each floorworker's exchanged cards separately, identify the banded group with the floorworker's name, session, and initial and date. A floorworker shall also initial the floorworker's banded group;
- (d) Number of cards returned to inventory and voided which must be independently counted and verified by two employees. Each person shall initial and date the verification; and
- (e) Document any discrepancy and corrective action taken; and

g. A voided card must be retained for six months.

- 25. If an employee determines, during or immediately after the play of a game and before a card is verified as a winning bingo, that a ball is missing, the employee shall void the game and offer the players a fair alternative.
- 26. Except for a game that has all of its numbers predrawn and for which an organization has recorded the information required by section 99-01.3-03-07 on the winning card and retains the card, an employee shall record a prize and bonus prize on a register according to section 99-01.3-03-07.
- 27. Unless written approval is obtained from the attorney general for use of another receipting method, an organization shall receipt gross proceeds, including an additional amount paid by a player for a chance to win an extra prize in a special game, by a cash register, tickets, paper card count, or floorworker sales report. The receipting method must reference the primary color ~~and~~ or serial number, type of cards, ~~and serial number~~ of the cards sold, or reference other information approved by the attorney general.
- 28. For a site where bingo is the primary game or a site that is leased by a licensed organization, the organization or any person may not pay bingo prizes in which the total bingo prizes exceed total bingo gross proceeds for two entire consecutive quarters. However, if bingo is the primary game at the site, a bingo prize that equals or exceeds ten thousand dollars is excluded from the calculation of total bingo prizes.

29. An organization shall have a written bingo program for each session. However, if the program does not change each day or session, an organization may retain one program and record the dates on which it applied. A program must contain:
- a. Name of a site or organization;
 - b. Date or dates of the sessions;
 - c. Description of each game and the game's prize; and
 - d. Selling prices of the cards or packages.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.1

99-01.3-04-07. Floorworker sales report. The floorworker sales report receipting method may be used to record gross proceeds of paper bingo cards sold by floorworkers. A report must be completed, for each floorworker, by an employee who is not a floorworker. For a bonanza bingo game in which an organization permits a player to exchange a partially played card for a new card and pay a discounted or exchange price, a report must contain all the information required by subsections 1 through 10. For all other games, a floorworker's report must contain all the information required by subsections 1 through 6, by game, and must contain the information required by subsections ~~7, 8, 9,~~ and through 10, by session.

1. Game number or game name.
2. Floorworkers' names or assigned numbers.
3. Selling price of each single (one card) and packet.
4. Number of singles and packets issued to each floorworker, by game. The employee issuing the cards and the floorworker shall initial the report. If an organization sells singles at a discount, the number of discounted sets must be predetermined and separately accounted for when issued to a floorworker.
5. Number of singles and packets returned by floorworker, by game, as unsold, including the number of exchanged bonanza bingo cards. The floorworker and an employee who is not a floorworker shall count the cards and initial the report in the presence of each other.
6. Number and value of singles and packets sold by each floorworker, by game.

7. Amount of cash turned in to a cashier by floorworker. The floorworker and the cashier shall count the cash and initial the report in the presence of each other.
8. Amount of cash long or short by floorworker.
9. Total value of singles and packets sold, total cash turned in, and total cash long or short.
10. A void, refund, or similar item must be approved by a supervisor and retained with the floorworker sales report.

History: Effective May 1, 1998; amended effective July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-04-08. Recordkeeping. Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For each session:
 - a. The gross proceeds for each type of sale or game. If a site system involving bingo card marking devices is used, records must include the summary report for the session according to subdivision c of subsection 1 of section 99-01.3-16-09.1;
 - b. The starting and ending cash on hand and IOU records according to section 99-01.3-03-06;
 - c. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all sessions for a quarter must reconcile to the tax return;
 - d. Prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08;
 - e. Inventory records according to subsections 2, 3, and 4 of section 99-01.3-03-09;
 - f. If bingo is the primary game at a site, the number of players and time of the count;
 - g. A copy of or reference to a bingo program according to subsection 29 of section 99-01.3-04-03;

- h. All voided paper bingo cards ~~for a session, other voided sealed and unpeekable bingo cards,~~ and exchanged bonanza bingo cards, which must be retained for six months;
 - i. The gift certificate register;
 - j. Redeemed gift certificates and discount coupons; and
 - k. Purchase invoice or receipt documenting the cost of a merchandise prize.
2. The cash profit (~~see defined in subdivision a of subsection 6 of section 99-01.3-02-01~~) ~~which must be, verification of the amount deposited intact according to a bank statement, and an audit of the game's activity according to section 99-01.3-03-10.~~
 3. The count and reconciliation of paper bingo cards, rolls of tickets, and cash banks according to subsection 6 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-05

99-01.3-05-03. Prize restrictions and requirements.

1. No prize may be real estate, ticket for entry into another raffle, or live animal except for beef or dairy cattle, horse, bison, sheep, or pig. ~~A live animal must be donated.~~ A prize must be an item that may be legally owned and possessed and has a value or a right to a free service. A winning player may not be required to first pay for or buy something to receive a prize. Cash or merchandise prizes may be awarded. A cash prize may be based on a percentage of gross proceeds. A However, a single cash prize cannot exceed one thousand dollars and, during one day, the total cash prizes cannot exceed three thousand dollars during a day.
2. ~~An organization may convert a merchandise prize to a cash prize; provided, that the retail price of a single merchandise prize does not exceed one thousand dollars and, during one day, the retail price of the converted merchandise prize and cash prizes do not exceed three thousand dollars.~~ On not more than one occasion per year a licensed organization may, at the request of a winning player, exchange a merchandise prize valued at not more than twenty-five thousand dollars for a cash prize. Merchandise prizes with a value in excess of twenty-five thousand dollars may not be exchanged for cash. If an organization conducts only one raffle per year, it may advertise that cash may be requested as an alternative to the merchandise prize being offered.
3. An organization shall own or, have a contract to acquire, or be able to obtain a merchandise prize before offering a merchandise prize in a drawing. However, an organization does not need to register or title an automobile or similar item.
4. Besides a primary prize that is awarded, an organization may offer an additional unguaranteed cash prize limited to one thousand dollars or merchandise prize provided:
 - a. A ticket must describe the prize;
 - b. The prize is predetermined and may be limited to a winning player of one of the other prizes;
 - c. A player is not required to pay an additional amount, forfeit a prize, or be present to participate;
 - d. Unless an organization owns a prize, an award of the prize must be insured; and

- e. Unless the prize is limited to a winning player of one of the other prizes, a drawing must be conducted from all tickets sold.
5. If an organization has not been able to recover the cost of the prize, it may cancel a raffle with approval from the attorney general and refund the gross proceeds.
6. A prize winner must be drawn or determined on the date and at the location indicated on a ticket unless a different date or location is requested in writing and approved by the attorney general before the date of the drawing. If a different drawing date or location is approved, an organization shall notify the purchasers of the tickets of the change by contacting each purchaser or by making a public announcement. The attorney general may, for good cause, change the date or location for a drawing.
7. Within seven days of a raffle, an organization shall notify the winning player verbally or, if the value of the prize exceeds two hundred dollars, in writing, of the prize and arrange the pickup or delivery of the prize. If a prize remains unclaimed by a winning player for thirty days following the date of the written notification and an organization has made a good-faith effort to contact the winner to redeem the prize, the organization may retain the prize, have a second prize drawing, or award it in another raffle or game.
8. An organization may award a bonus prize based on a separate drawing of previously drawn winning tickets.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 36-21.1-09, 53-06.1-01.1, 53-06.1-10.1

99-01.3-05-05. Double admission tickets. An organization may use double admission tickets provided:

1. Two single tickets must be printed side by side on a roll with a consecutive number. Both tickets must have the same number;
2. A list of the prizes must be disclosed or made available to players or the prize must be present at the site. If there is more than one prize, an organization may use a different receptacle for each prize to enable an employee or player to place one of the tickets in the receptacle related to a certain prize, or one receptacle in which the winning player can select from a variety of prizes. All tickets must be sold consecutively or in consecutive sets if the tickets are tracked by each ticket seller at a site on the day of the raffle. All the tickets of each separately colored roll must be sold for the same price on that day. An organization may use a separate colored roll to sell several tickets to a person at a discount.

The organization and player each retains one ticket, unless the player is allowed to temporarily retain the entire ticket until the player places one ticket into a receptacle;

3. A winning player need not be present when a drawing is held but shall claim the prize within a reasonable redemption period set by the organization ~~that day~~. Otherwise, an organization shall conduct ~~a second one or more additional prize drawing, or more, drawings~~ until the prize is claimed. A statement of the time of the drawing and redemption period must be on all promotional material and be posted at a site; and
4. An organization shall record in its daily records the color and selling value of each ticket and the lowest and highest numbered ticket sold from each roll. Any tickets left on a roll which will not be sold in any other raffle must be retained as part of the daily records. This subsection does not apply to a local permit.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-05-06. Reporting gross proceeds and prizes.

1. When the sales price of a raffle ticket relates partly to admission for a meal or other nongaming activity, an organization shall deposit the gross proceeds into its gaming account and allocate the amount between gaming and nongaming activity in this order:
 - a. An amount is allocated to raffle gross proceeds equal to the cost of the prize.
 - b. An amount is allocated to nongaming activity to recover its cost. This amount must be documented and is not reported on a tax return.
 - c. The remaining amount is allocated to raffle gross proceeds.
2. If an organization conducts a raffle in which the prize drawing is in one quarter, the gaming activity must be reported in the quarter in which the prize drawing is held. If an organization conducts a calendar raffle in which ~~prize drawings~~ prizes are awarded in more than one quarter, the gross proceeds and prizes must be reported in the quarter in which the final prize drawing is held awarded. Actual drawings for a calendar

raffle may be conducted at one time with the awarding of prizes at a later date.

History: Effective May 1, 1998; amended effective July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-05-07. Recordkeeping. Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For each raffle:
 - a. Purchase invoice documenting the purchase of tickets and range of ticket numbers printed;
 - b. Ticket distribution log containing a ticket seller's name, quantity issued, range of single and discounted ticket numbers issued to the seller, and quantity sold;
 - c. Reconciliation of the cash received from each ticket seller based on the number of tickets sold, including discounted tickets, date cash is received, and a schedule of bank deposits;
 - d. For double admission tickets, the daily starting and ending cash on hand, IOU records according to section 99-01.3-03-06, and daily records according to subsection 4 of section 99-01.3-05-05;
 - e. A sample of a ticket;
 - f. The stubs of all sold tickets which must be retained for one year from the end of the quarter in which the activity was reported on a tax return;
 - g. Prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08;
 - h. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all raffles for a quarter must reconcile to the tax return; and
 - i. Purchase invoice or receipt documenting the cost of a merchandise prize and documentation of the cost of nongaming activity according to subdivision b of subsection 1 of section 99-01.3-05-06.
2. For double admission tickets, inventory records according to subsections 3 and 4 of section 99-01.3-03-09.

3. The total receipts, less a cash prize, which must be cash profit defined in subdivision b of subsection 6 of section 99-01.3-02-01, verification of the amount deposited according to a bank statement, and an audit of the game's activity according to section 99-01.3-03-10.
4. The count and reconciliation of rolls of tickets and cash banks according to subsection 6 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-06

99-01.3-06-01. Games - Definitions. This chapter applies to an organization that conducts pull tabs, club specials, tip boards, seal boards, prize boards, and punchboards, but not pull tabs involving a dispensing device. The maximum price per chance is two dollars. A prize board, club special, punchboard, seal board, and tip board are conducted as a single game which may have a cash or merchandise prize and one or more seal prizes. The value of a seal prize or a last sale prize may exceed the value of the top tier prize. ~~The value of a last sale prize cannot exceed the value of the top tier prize. If a merchandise prize is awarded, its retail price must be stated on a flare.~~ For pull tabs described by subsection 3, only a cash prize can be awarded, not a merchandise or seal prize.

1. "Club special" means a placard used with pull tabs and it contains numbered lines and a seal covering the winning number of the top tier prize. A player may win a minor prize or, if the player has a pull tab with a number matching a predesignated number on the placard, would sign the player's full name on the line. When all the lines are signed, a seal is removed to reveal a winning line number. A player whose signature is on that line wins the seal prize. An organization is responsible for ensuring that a description and retail price of a merchandise prize or cash prize to be awarded and cost per play is on a flare. The maximum number of pull tabs in a deal is five hundred. The maximum cash prize, last sale prize, or seal prize, including the retail price of a merchandise prize, is one hundred fifty dollars.
2. "Prize board" means a board used with pull tabs to award cash or merchandise prizes. Coins of various values may be affixed to the board and, under each coin, a cash prize value is preprinted on the board. A board may contain numbered lines and a seal covering a winning number. A player having a pull tab with a number matching a predesignated number on a board for a seal prize signs the player's full name on the numbered line or supplemental sheet. However, if a number or symbol matches a winning number or symbol assigned to a specific coin or minor prize, the player wins that coin or prize, and a cash prize value stated under the coin. A last sale prize may be awarded. When the board is closed, a seal is removed to reveal the winning line number. A player whose signature is on that line wins the seal prize. No board may be closed unless all the top tier winning pull tabs have been redeemed, all the pull tabs are sold, all the seals have been opened, or the board has been conducted for ninety calendar days. An organization is responsible for ensuring that a description and retail price of a merchandise prize or cash prize to be awarded and cost per play is on a board. A seal prize and a last sale prize are not considered top tier prizes. If a coin is not awarded, an organization shall determine the prizes to report on a tax return by prorating the total cost of the coins, according to their face value, of the coins that were awarded to the total face value of all the coins. An organization may use an unawarded prize in another game, sell the prize, or deposit the

coin in the gaming account. The maximum number of pull tabs in a deal is two thousand. The maximum cash prize, last sale prize, or seal prize, including the retail price of a merchandise prize, is five hundred dollars.

3. "Pull tab" means a folded or banded ticket (jar ticket) or a card with break-open tabs (pull tab) or latex covering. Unless otherwise stated, the terms "pull tab" and "jar ticket" are used interchangeably. A winning pull tab contains certain symbols or numbers and may contain multiple winning symbols or numbers. A pull tab game must be played with two or more deals commingled at any time. The maximum cash prize for a winning symbol or number on a pull tab or last sale prize is five hundred dollars.
4. "Punchboard" means a board comprised of holes that contain numbered slips of paper (punches). A punchboard may include a seal prize, and more than one last sale prize if the punchboard is split into more than one section. An employee or player extracts a punch from the punchboard. If the number on the punch matches a number on a flare, the player wins a prize. No punchboard may be closed unless all the top tier winning punches have been redeemed, all the punches are sold, or the punchboard has been conducted for ninety calendar days. A seal prize and a last sale prize are not considered top tier prizes. An organization is responsible for ensuring that a description and retail price of a merchandise prize or cash prize to be awarded and cost per play is on a board. The maximum cash prize or seal prize, including the retail price of a merchandise prize, is five hundred dollars.
5. "Seal board" means a placard containing consecutively numbered lines. A seal covers the winning number. A player buys a blank "line" and signs the player's full name on it. After all the lines are signed, the seal is removed to reveal the winning line number. An organization is responsible for ensuring that a description and retail price of a merchandise prize or cash prize to be awarded and cost per play is on a board. The maximum seal cash prize or retail price of a merchandise prize is five hundred dollars.
6. "Tip board" means a placard to which jar tickets or pull tabs are attached. A seal covers the winning number of the top tier prize. A player may win a minor prize or, if the number of a player's jar ticket matches a number on the placard, the player signs the player's full name on the line. After all the lines are signed or all the pull tabs have been sold, the seal is removed to reveal the winning number. ~~The maximum number of jar tickets or pull tabs in a deal is five hundred. The maximum cash prize or seal prize, including the retail price of a merchandise prize, is one hundred fifty dollars.~~ An organization is responsible for ensuring that a description and retail price of a merchandise prize or cash prize to be awarded and cost per play is on a board. The maximum number of jar tickets or pull tabs in a deal is five hundred. The maximum cash prize

or seal prize, including the retail price of a merchandise prize, is one hundred fifty dollars.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-08

99-01.3-06-03. Recordkeeping. Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. All redeemed and unsold pull tabs or punches for a game must be retained as documentation for gross proceeds and prizes for one year from the end of the quarter in which the activity was reported on a tax return;
2. For a commingled game, an accounting of each deal's, shift's, or day's redeemed pull tabs, including the number by prize value, total prizes, and number of redeemed top tier pull tabs by game serial number. This accounting must be consistent and be done each time a deal is added to a game, a shift ends, or at the end of each day. If the accounting is done each time a deal is added to a game, the redeemed winning pull tabs for the period must be grouped separately and retained with all other groups of pull tabs of that game. If the accounting is done at the end of each shift or day, the redeemed winning pull tabs for each shift or day must be banded and each banded group must be dated with the date of activity and be retained in a storage container with all other banded groups of that game. For each game, there must be a daily accounting of deals added to a game, by gaming stamp and game serial numbers, and of the cash profit and bank deposit;
3. For a club special, tip board, seal board, prize board, and punchboard, and an accounting of prizes, by state gaming stamp number;
4. A daily accounting of starting and ending cash on hand and IOU records according to section 99-01.3-03-06;
5. For a deal of pull tabs or prize board, the game information sheet and flare, and for a club special, tip board, punchboard, and seal board, the flare, with the state gaming stamp affixed ~~must be retained for three years from the end of the quarter in which the game was reported on a tax return;~~
6. A summary of ideal gross proceeds, value of unsold pull tabs or punches, gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries for a quarter must reconcile to the activity reported on the tax return;

7. Record of win according to section 99-01.3-03-08;
8. Inventory records according to subsections 1 and 4 of section 99-01.3-03-09;
9. For a commingled game, club special, tip board, seal board, prize board, and punchboard the cash profit (~~see subdivision defined in subdivisions c, e, and f of subsection 6 of section 99-01.3-02-01~~) must be, verification of the amount deposited intact according to a bank statement, and an audit of the game's activity according to section 99-01.3-03-10;
10. ~~For a club special, tip board, seal board, prize board, and punchboard, the cash profit (see subdivisions e and f of subsection 6 of section 99-01.3-02-01) must be deposited intact according to section 99-01.3-03-10;~~
11. Interim audit records according to subsection 13 of section 99-01.3-06-02;
12. ~~11.~~ Purchase invoice or receipt documenting the cost of a merchandise prize; and
13. ~~12.~~ The count and reconciliation of deals, games, and cash banks according to subsection 6 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-07

99-01.3-07-01. Sports pool. A "sports pool" is comprised of wagers paid by players for a line or square that will determine which player wins. The maximum cost per line or square is five dollars. The conduct of a sports pool is the selling of chances on the board and award of a prize. Only cash prizes can be awarded. No sports-pool board with the state gaming stamp affixed may be conducted off of a site.

1. A sports-pool board must be a ~~ten or twelve~~ multiple line or ~~twenty-five or one hundred~~ multiple square board based on the professional sporting event, provide for an equal chance for each player to win, and be acquired from a distributor.
2. An organization shall complete the cost per play, date of sports event, ideal prizes, and method of prize payout on a board. An employee of a lessor may sell chances on a board, but not award prizes, at the site for the organization authorized to conduct games at the site. The method of prize payout may be at periodic intervals or the end of ~~a game~~ an event. The total payout cannot exceed ninety percent of the gross proceeds.
3. ~~A sports pool must be conducted for a professional sporting event only.~~ An organization shall designate one opponent along the vertical columns of numbers and the other opponent along the horizontal rows of numbers. However, if the opponents are unknown when the board is being sold, an organization shall designate identifiable conferences, divisions, or ~~games~~ events. A player who buys a square or line or an employee shall write the player's full name in that square or on that line. Only one player may buy a specific square or line. Except for a calendar sports pool, no tapes may be removed until all the squares or lines are sold and the opponents are designated. All the squares or lines must be sold before the sports event begins. If all the squares or lines are not sold, an organization may advance the board to another ~~game~~ event or refund the players' money. If opponents were designated but the board is advanced to another ~~game~~ event, an organization shall ~~may~~ keep the same opponents or designate new opponents. When an unsold board is advanced to another ~~game~~ event, an organization shall post a notice on a site disclosing its policy of advancing the board. Gross proceeds must be separately maintained for each board.
4. An organization may conduct a calendar or master sports pool for two or more ~~games~~ events of the same sport. An organization shall use one board for each ~~game~~ event and buy the necessary number of boards before selling any square. For example, if a sports pool involves sixteen ~~games~~ events, an organization shall buy sixteen boards. A player buys the same square on each board for all the ~~games~~ events. Each board is reported separately on a tax return for the quarter in which the ~~game~~ event was held.

5. A calendar sports pool must be conducted as follows:
- a. The tapes covering the numbers assigned the horizontal rows and vertical columns of the boards must be removed to reveal the numbers. One opponent must be designated along the vertical columns of numbers and the other opponent designated along the horizontal rows of numbers. The board must state the game event and its date;
 - b. Each square of each board must be assigned a consecutive number starting with number one. The numbering must be in sequence, left to right;
 - c. Each board must be printed and may be reduced in size. The quantity printed is based on the type of board. For example, for a one hundred square board, each board must be printed one hundred times. A printed board for each game event and a receipt comprise a book;
 - d. A receipt must contain:
 - (1) A consecutive receipt number starting with one. A statement that the receipt number is the player's assigned square for all the boards in the book;
 - (2) Name and address of organization and name of site;
 - (3) For a licensed organization, print "office of the attorney general" and site license number. For an organization that has a permit, print the name of the city or county and permit number;
 - (4) Price of the book, method of prize payout and prize; and
 - (5) A detachable section containing a player's full name, address, telephone number, and matching receipt number which is retained by an organization;
 - e. An employee may not sell a book on a site where another organization is licensed or has a permit unless the employee is granted permission by the lessor and other organization;
 - f. A player may not choose a particular book to buy. When a book is sold, a receipt's detachable section is completed. After a player buys a book, the player may see the numbers assigned that player's square on the boards;
9. A board must be posted at the site on the day that the related game event is held; and

- h. If all the books of a calendar sports pool are not sold before the first game event, an organization shall refund the players' money and void all the boards. The voided boards must be reported on the tax return as "no activity".
6. A master sports pool must be conducted as follows:
- a. An organization shall post a ~~twenty-five or one hundred~~ multiple square master board at a site. Each square must be assigned a consecutive number starting with number one. The numbering must be in sequence, left to right. A master board must include:
- (1) Name of organization;
 - (2) The games events;
 - (3) Price of participating, number of games events, method of prize payout and prize; and
 - (4) A statement that the scores assigned to the players' squares for each game event will be posted at the site five days before the game event.
- b. A player shall buy a square and write the player's full name and telephone number in it.
- c. A sports-pool board with the state gaming stamp affixed must be posted at a site five days before the game event related to that board is held.
- d. If all the squares of a master sports pool are not sold before the first game event, an organization shall refund the players' money and void all the boards. The voided boards must be reported on the tax return as "no activity".
7. The winner of a board is determined, ~~at the end of each payout period periodic intervals or at the end of the event~~:
- a. For a ~~ten~~ multiple line board, by determining the line that is assigned the ~~last~~ winning number (one's position) ~~of or~~ the combined score of both opponents.
- b. ~~For a twelve line board, by determining the line that is assigned the number of the round in which the boxing match ended.~~
- c. For a ~~twenty-five and one hundred~~ multiple square board, by determining the square at the juncture of the horizontal row and vertical column which relate to the numbers (one's position) of each opponent's score.

8. An organization shall make a good-faith effort to contact a winning player to award a prize. If a prize is unclaimed for thirty days following the notification or a player attempts to falsify or falsifies a record of win, the prize is forfeited.
9. An employee shall record a prize on a board or a register according to section 99-01.3-03-07. If a prize is recorded on a board, the board must contain the information required by section 99-01.3-03-07. This subsection does not apply to a permit.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-09

99-01.3-07-02. Recordkeeping. Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For each sports-pool board:
 - a. ~~The sold board indicating with the state gaming stamp affixed which must indicate the winning square or line. A board must be retained for one year from the end of the quarter in which the activity was reported on a tax return. However, if an organization uses a board as a prize register or record of win, the board must be retained for three years from the end of the quarter in which the game was reported on a tax return;~~
 - b. The daily starting and ending cash on hand and IOU records according to section 99-01.3-03-06;
 - c. The type of professional sport and amount of each prize;
 - d. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all sports-pool boards conducted during a quarter must reconcile to the activity reported on a tax return; and
 - e. Prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08.
2. Inventory records according to subsections 1 and 4 of section 99-01.3-03-09.
3. The total receipts, less a cash prize, which must be cash profit defined in subdivision g of subsection 6 of section 99-01.3-02-01, verification of the amount deposited according to a bank statement, and an audit of the event's activity according to section 99-01.3-03-10.

4. The count and reconciliation of sports-pool boards and cash banks according to subsection 6 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-08

99-01.3-08-02. Table, drop box, cards, and dealing shoe.

1. If there is more than one table at a site, a table must have a number. A table playing surface must display no more than seven separate betting spaces and these statements:

BLACKJACK PAYS 3 TO 2

and

DEALER MUST STAND ON 17 AND MUST DRAW TO 16

or

If a site allows the dealer to take a hit card when the dealer has a soft seventeen:

BLACKJACK PAYS 3 TO 2

and

DEALER MUST HIT SOFT 17

2. A table must have a drop box that meets the specification of subsection 5 of section 99-01.3-15-02. If there is more than one table at a site, a drop box must have a number matching the table number. A drop box must have a money plunger which must remain in the slot unless the plunger is used to insert currency or forms.
3. The cards must be four, six, or eight decks and be dealt from a dealing shoe located at a dealer's left. The cards must be the same size, shape, design, and be jumbo-faced. However, if a mechanical or electronic hole card reader is used on a table, cards that are not jumbo-faced may be used provided that the organization has received approval from the attorney general. Approval must be based on the attorney general's evaluation of the clarity of the cards on ~~videotape or~~ electronic a recorded video storage of activity for the table. The color of the backs of all decks must be one predominate color, or one-half of the number of decks must be one predominate color and the other decks a different predominate color. The design on the back of each card must be identical.
4. A dealing shoe must hold four or more complete decks of playing cards.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-08-03. Casino chips.

1. A wager and tip must be made with chips. If an organization accepts a twenty-five dollar wager, it shall provide twenty-five dollar chips to players for their optional use. Chips may be issued in values of fifty cents, one dollar, two dollars, five dollars, and twenty-five dollars. An

organization may use a fifty cent metal coin or fifty cent United States coin as a substitute for a fifty cent chip provided the coin produces sufficient clarity on video surveillance. Except for a commemorative chip, an organization may not use a different chip of the same value at a site.

2. Each chip must be one and nine-sixteenths inches [39.62 millimeters] in diameter and be permanently impressed, engraved, or imprinted on one side with an organization's name and on the other side with the value of the chip. The name may be represented by a unique identification that differentiates an organization's chips from all other organizations' chips. If a site had twenty-one gross proceeds averaging ten thousand dollars or more for two consecutive quarters and this level of activity is expected to continue or an organization installs a video surveillance system at a site, regardless of the value of wagers accepted at the site, the chips must meet the specifications of subsection 3. If video surveillance is not required, an organization may use a fifty cent United States coin as a substitute for a fifty cent chip or fifty cent metal coin.
3. Each value of chip must have the following prescribed primary color. Except for a fifty cent chip or metal coin, a chip also must have one or two contrasting secondary colors as edge spots. Edge spots must be visible on the perimeter of both sides of a chip and on the chip's circumference. An organization may not use a secondary color on any value of chip that is identical to the primary color used by the organization on another value of chip that results in a reversed combination of primary and secondary colors between the two values of chips. The primary colors and edge spots must be:
 - a. Fifty cent mustard yellow chip - ~~mustard yellow which is the color classified as 5Y 7/6 on the Munsell system of color coding. This a~~ fifty cent chip has no edge spots. A fifty cent metal coin or fifty cent United States coin may be used as a substitute for the fifty cent chip.
 - b. One dollar white chip - ~~white which is the color classified as N 9/ on the Munsell system of color coding. A a~~ one dollar chip must have four solid edge spots and each edge spot must be one-half of one inch [12.7 millimeters] in width.
 - c. Two dollar pink chip - ~~pink which is the color classified as 2.5R 6/10 on the Munsell system of color coding. A a~~ two dollar chip must have four split edge spots and each edge spot must be three-eighths of one inch [9.40 millimeters] in width. Each of the two split portions of an edge spot and the space between the two split portions must be one-eighth of one inch [3.05 millimeters] in width. The two split portions of an edge spot must be the secondary color and the middle space may either be the primary color or a third color.

- d. Five dollar red chip - ~~red which is the color classified as 2.5R 4/12 on the Munsell system of color coding.~~ A a five dollar chip must have six solid edge spots and each edge spot must be one-quarter of one inch [6.35 millimeters] in width.
 - e. Twenty-five dollar green chip - ~~green which is the color classified as 2.5G 5/12 on the Munsell system of color coding.~~ A a twenty-five dollar chip must have eight white solid edge spots and each edge spot must be five thirty-seconds of one inch [4.06 millimeters] in width or, if the center of the chip is embossed in gold or inlaid with a coin, the chip must have three white solid edge spots and each edge spot must be fifteen thirty-seconds of one inch [12.18 millimeters] in width.
 - f. One hundred dollar black chip - ~~black which is the color classified as N 2/ on the Munsell system of color coding.~~ A a one hundred dollar chip must have four white triple split edge spots and each edge spot must be one-half of one inch [12.7 millimeters] in width. Each of the three split portions of an edge spot and the two spaces between the three split portions must be about three thirty-seconds of one inch [1.52 millimeters] in width. This chip is used in the game of paddlewheels.
4. An employee shall safeguard chips in a safe place or on a table with a locking cover. If a table has been opened and no employee is stationed at it, an employee shall remove or secure the chip tray with a locking cover.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-10

99-01.3-08-04. Video surveillance system. If a site had twenty-one gross proceeds averaging ten thousand dollars or more per quarter for two entire consecutive quarters, this level of activity is expected to continue, and wagers exceed two dollars, an organization shall have a video surveillance system operational at the site within forty-five days from the end of the second quarter. However, for a site with seasonal activity, this level of activity is based on the average gross proceeds of the active quarters within the fiscal year July first through June thirtieth. A level of activity is based on a site's recent historical experience, but not earlier than the previous fiscal year, regardless of which organization conducted twenty-one at the site. If an organization conducts twenty-one at a newly acquired site that has a level of activity requiring a video surveillance system, it shall have the system for a table operational within forty-five days of conducting twenty-one or limit wagers to two dollars until the system is operational. A system must be operational for each twenty-one table that is regularly located on a site, regardless of how infrequent a table is used or the value of wagers accepted at the table. A temporary table that is brought onto a site for

fourteen or fewer consecutive days for a special event according to subsection 4 of section 99-01.3-01-02, but for not more than two events per quarter, does not need a system. An organization shall:

1. Install a system that meets these specifications:
 - a. A recording unit must be a super VHS (S-VHS) system utilizing super VHS (S-VHS) videotapes or a digital video recorder (DVR) system and must record in real time. A video system must be approved by the attorney general and no time lapse or multiplex video recorders may be used as the primary mode of operation. A recording unit must be secured in a locked cabinet or area, plugged into an outlet that cannot be switched off, and be programmable with a minimum seven-day memory backup. A recording unit must have a built-in or separate time and date generator that displays the time and date on the recorded video without significantly obstructing a recorded picture. A playback unit used to review a recorded video must have forward and reverse frame-by-frame and high-speed scanning capability;
 - b. A super VHS or high resolution color camera that has four hundred or more active lines of horizontal resolution must be used. A camera must have a signal to noise ratio, with the automatic gain circuitry off, of forty-five decibels or better. A camera must be positioned above the center of a table and record gaming activity from the dealer's perspective. A camera must be plugged into a surge protector and use an outlet that cannot be switched off. A camera must be protected by a slotted or clear dome. An automatic iris is optional;
 - c. A camera lens must have an f-stop rating of f-1.2 or better, be color-corrected and have a format size equal to or greater than the format size of a camera. A lens may be fixed or variable focus. A lens must have a field of view to record the face of a dealing shoe, all betting spaces, discard holder, chip tray, currency plunger, and table number;
 - d. A color video monitor with a connection that produces lines of horizontal resolution that equal or exceed the number of active lines of horizontal resolution that a video camera is outputting. A monitor's screen must measure at least thirteen inches [330.2 millimeters] diagonally; and
 - e. For a super VHS color camera, super VHS YC or coaxial video cable must be used. For a high resolution color camera, coaxial video cable must be used. The cable must meet these specifications:

- (1) If the length of a cable is one hundred linear feet [30.48 linear meters] or less and the cable will not be flexed, exposed outside a building, or constantly moved, the center conductor must be stranded or solid pure copper material. Otherwise, the center conductor must be stranded pure copper material.
 - (2) The shield must be braided pure copper material. The dielectric must be foam material. A cable must be rated for seventy-five ohms of impedance. If a cable is to be placed in a return air system, the jacket must be teflon or other accepted fire-rated material.
2. Buy or lease qualifying items. Additional allowable expense funds may be used for only these qualifying items:
 - a. Super VHS video cassette recorder (VCR), central processing unit (CPU), digital video recorder (DVR), time and date generator, and locking vented enclosure;
 - b. Super VHS, digital, or high resolution color camera with a fixed or zoom lens and dome;
 - c. Super VHS or high resolution color video monitor;
 - d. Super VHS YC or coaxial video cable;
 - e. VCR, CPU, or DVR cabinet, super VHS videotapes, and tape tapes or compact disk computer hard drives, and related storage cabinet;
 - f. Table number and site identification;
 - g. Installation and maintenance of equipment, including lighting fixture;
 - h. In-line video cable amplifier, surge protector, video printer, tape rewinder, battery backup, and tape eraser; and
 - i. Lease payment and interest expense on a financing loan.
 3. If an organization conducts twenty-one or paddlewheels at more than one site, a table must have a site identification. A site identification and any table number must be visible on a recorded video.
 4. A playing surface must be a bright the standard green. Only Red or maroon and black jumbo-faced playing cards may be used.
 5. ~~If a recording unit or camera for a table is not properly operating or not producing an unobstructed view and clear picture of cards, currency, and chips and not repaired or remedied within seventy-two continuous~~

~~hours, either close the table or limit wagers to two dollars at all the tables at the site until the equipment is repaired.~~

- 6- 6. Maintain a clean dome and a proper field of view on the playing surface.
- 7- 6. Authorize only a gaming or shift manager or an independent person to:
 - a. Access a recording unit, camera, and stored recorded video;
 - b. Start and stop a recording unit for a table when chips are first made available for use on the table and continue recording until the table is permanently closed for the day; and
 - c. Change a recorded video in a recording unit for a table at the beginning, during, or at the end of a day's activity, regardless if the authorized person is a dealer or wheel operator at the site. An organization may use two real time recorders in sequence to record a table's activity that exceeds the recording capability of one tape. If two recorders are used for one table, their separate recordings for a day's activity must overlap by ten minutes.
- 8- 7. Retain a recorded video in a safe storage place for thirty days.
- 9- 8. ~~On a weekly basis a qualified person~~ daily basis an employee shall review one hour of and document that a surveillance camera at each twenty-one and paddlewheel activity multiplied by the number of tables used and document the review. However, if a table at a site is operated for twenty hours or less per week, only one half hour of review is required. A person may not review a recorded video of a table on which the person dealt or was a wheel operator table at a site is recording an unobstructed view of the table activity. If a recording unit or camera for a table is not properly operating or not producing an unobstructed view and clear picture of the cards, currency, or chips and is not repaired or remedied within seventy-two continuous hours, the organization shall close the table or limit wagers to two dollars on the table until the equipment is repaired.
- 40- 9. Use the attorney general's current recordkeeping system unless approval is obtained from the attorney general for use of another system. An organization shall track a dealer's and wheel operator's percent-of-hold performance. Percent-of-hold is computed as adjusted gross proceeds divided by gross proceeds.
- 44- 10. Limit its purchase or lease of a camera, lens, cable, camera dome, digital recording device, time and date generator, and installation, including moving a camera to another site, to a vendor approved by the attorney general. An organization shall defer remitting at least fifty percent of the cost or lease price of this equipment to a vendor until the attorney general approves the clarity of the recorded video

for a table. A vendor shall provide the attorney general with a sample recording to evaluate. ~~However, an organization may buy or lease a qualifying item from another organization provided the equipment meets the specification of subsection 1.~~ If an organization acquires video surveillance equipment at a new site from another organization, moves a camera or table to another location at the site, or converts to a digital video recorder (DVR), the organization shall, within fourteen days, provide the attorney general with a sample recorded video to evaluate. ~~If an organization moves a table to a different location at a site, the organization shall, within fourteen days, provide the attorney general with a sample recorded video to evaluate.~~ If the quality of the sample tape is not satisfactory, an organization and vendor shall resolve the deficiency. An organization may buy or lease a qualifying item from another organization provided the equipment meets the specification of subsection 1.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; ~~October 1, 2006.~~

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-10, 53-06.1-11

99-01.3-08-08. Shuffle and cut of the cards.

1. Before starting play, and after each shoe of cards is dealt, a dealer shall, in front of the players, thoroughly shuffle all the cards. As an alternative to a dealer hand shuffling the cards, an organization may use an automatic card shuffling device which complies with section 99-01.3-16-09.3. Then, a dealer shall offer the stack of cards, with backs facing away from the dealer, to a random player to be cut. A player shall cut the cards by placing a cutting card in the stack at least ten cards in from either end. A dealer shall rotate the opportunity to cut the cards among all the players. If all players decline, a dealer or pit boss shall cut the cards. For a site with a video surveillance system, an organization shall standardize its dealers' procedures for shuffling and cutting cards and may use one or more standard shuffling methods.
2. A dealer shall take all the cards in front (toward the dealer) of a cutting card and place them in back of the stack or take all the cards in back (away from the dealer) of the cutting card and place them in front of the stack. The cutting card must be at the bottom of the stack. A dealer shall then insert an indicator card about fifty to one hundred cards from the bottom of the stack. The stack is inserted into a dealing shoe facedown. When an indicator card appears at the face of a shoe and enough cards have been dealt to complete the present hand, a dealer shall reshuffle the cards. A dealer may reshuffle the cards only if the indicator card appears, no activity has occurred at the table for a period of time set by

the organization, or a table has been temporarily closed with no dealer stationed at the table and it is reopened.

History: Effective May 1, 1998; amended effective July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-08-09. Betting.

1. An original wager must be an even dollar amount and may range from one dollar to twenty-five dollars. A wager of one dollar must be accepted unless an organization has more than one active table then a minimum wager may be set on no more than one-half of the tables. An active table under this subsection means a table in which a dealer and chips are present and available for play or has one or more players participating in the game. An organization may establish a maximum wager for each table. If all the tables at a site do not have the same betting limit, a plaque must be placed on top of a table indicating the minimum and maximum wager for the table. If a table that has a minimum wager becomes the only active table at a site or more than one-half of the active tables have a minimum wager, then the organization must notify players that the minimum wager amount will be lowered to a wager of one dollar at the end of the current dealing shoe. A wager that exceeds the maximum wager is valued at a table's maximum wager and the excess must be returned to a player. An organization shall post and announce a change in the maximum wager at a table with adequate notice to a player.
2. An original wager is the amount bet per hand before the first card is dealt and excludes tip betting. After the first card has been dealt, no original wager or tip bet may be changed. A separate wager may be a split, double-down, insurance bet, and tip bet.
3. Splitting is permitted on any pair or any two 10-count value cards. A player is allowed a maximum of four hands per betting space. A player's right-hand card in a split must be played to completion before the adjacent split hand is dealt a second card. A player shall take at least one card on a split hand. A wager on each hand must equal the original wager. Split aces draw only one card each. A two-card twenty-one after a split is not a natural twenty-one.
4. Doubling-down is permitted on the first two cards dealt to a betting space or the first two cards of a split hand, except on split aces. An organization may require a double-down wager to equal the original wager or allow a double-down wager to be equal to or less than the original wager. Only one additional card is dealt.

5. An organization may permit insurance betting except on a tip wager. An insurance bet is placed when a dealer's faceup card is an ace and it must be one-half the original wager. The payoff on a winning bet is two to one.
6. An organization may permit tip betting and doubling-down on tip bets. A tip bet is made when the original wager is made by placing a chip outside a betting space, but with the chip touching the lower left edge of the betting space, from a dealer's perspective. A betting space is limited to one tip bet. A tip bet does not have to equal an original wager and may range from fifty cents up to a table's maximum wager, but may be limited to less than the table's maximum wager at an organization's option. A doubled-down tip bet ~~must~~ may be equal to or less than the original tip bet. If a player's hand wins, a tip bet is paid off at an equal amount and the tip bet and payoff are placed in a dealer's tip receptacle. If the dealer's hand wins, a tip bet is placed in the chip tray. If a player's and dealer's hands tie, a tip bet is a standoff (push).
7. If a player's wager consists of two or more values of chips, a player shall neatly stack the lowest value chip on top of the highest value chip. If the chips are improperly stacked, a dealer shall tell the player and either the dealer or player shall properly stack the chips.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-10

99-01.3-08-11. Playing.

1. After the first two cards have been dealt to each betting space and if a dealer's faceup card is an ace, the dealer shall ask the players if they desire to make an insurance bet. A player shall make an insurance bet by placing a chip on the insurance line of the playing surface. A dealer shall reposition the chip below the lower right-hand corner of the first card dealt and to the immediate right of the second card dealt, from the dealer's perspective. A dealer shall then announce "insurance bets are closed". However, if a player who has been dealt a natural twenty-one (blackjack) desires to make an insurance bet and does not desire to double-down, a dealer may, at an organization's option, do an even money payoff rather than having the player place an "insurance" bet. To exercise this option, a dealer shall state "even money" and immediately do a chip payoff to a player equal to the player's original wager. This even money payoff must be done according to subdivision a of subsection 16. A dealer shall then place the player's cards in a discard holder. For this option, a tip bet is a standoff (push). This rule does not apply if an insurance bet is not permitted.

2. A dealer may announce the dealer's faceup card one time to all the players at a table. If the dealer is using the hole-card-no-peek method of dealing, the dealer's faceup card is an ace or a ten-count card, the dealer is using a mechanical or electronic hole card reader and special cards, and the dealer's hand is a natural blackjack, the dealer shall play the dealer's hand as prescribed by subdivision c or d of subsection 10. Otherwise, a dealer shall, beginning from the dealer's left and for each player's hand, prompt a player to indicate whether the player desires to split or double-down, or both. As a prompt, a dealer may announce the point total of each player's hand. For splitting a hand, a player shall place an additional wager, equal to an original wager, horizontal to the original wager. For doubling-down on an original wager or tip bet, a player shall place a chip vertical to the wager. A player may not double-down on a tip bet unless the player also doubles-down on the original wager. If a dealer is unsure of a player's intent, the dealer shall ask the player and properly reposition a chip.
3. If a player has split or doubled-down, or both, a dealer shall play each hand as follows:
 - a. When a player places a wager for a split, a dealer shall split the cards side by side. If a player has also placed a tip bet, a dealer shall assign and reposition the tip bet to the split hand located at the foremost left of a betting space, from the dealer's perspective. Each split hand must be played separately. If aces are split, one additional card must be dealt face upwards to each of the hands and placed at a right angle to the first card dealt.
 - b. A doubled-down hand must be dealt one additional card face upwards and placed at a right angle to the first two cards dealt. However, if a table does not have a video surveillance system, the card may be placed beneath a player's original wager.
4. A dealer may not take a hit card from a dealing shoe nor may a dealer bypass a player unless the player has first indicated the player's request for a hit card or to stand by a distinct hand signal.
5. As a player indicates to stand or draw a hit card, other than on a hand that has split aces or a double-down, a dealer shall deal face upwards an additional card or cards as the player requests. A player is responsible for correctly computing the total card count of the player's hand.
6. If a player did not split, double-down, or place an insurance bet, and busts (a player's total card count exceeds twenty-one), the player loses an original wager and any tip bet. A dealer shall immediately collect and place a player's chips, including any tip bet, in a chip tray and the cards in a discard holder.

7. If a dealer's faceup card is not an ace or a ten-count card and a player split or doubled-down and busts, the player loses the wager for that split or double-down hand and any tip bet assigned to it. A dealer shall immediately collect and place a player's chips in a chip tray and the cards in a discard holder.
8. If a dealer's faceup card is an ace or a ten-count card and a player split, doubled-down, or placed an insurance bet and busts, the dealer shall gather the cards of that hand and place them outside the betting space. Then, a dealer shall reposition the player's split and or doubled-down wagered chips, in the same betting position, on top of the player's cards of that hand. A tip bet for such a split or double-down hand that busts is lost. A dealer shall immediately place the tip bet chips in a chip tray.
9. If a dealer's faceup card is not an ace or a ten-count card and all players bust, a dealer shall end the round. If a dealer's faceup card is an ace or a ten-count card and all players bust, and no player split, doubled-down, or placed an insurance wager, a dealer shall end the round.
10. If the decisions of all players have been carried out, a dealer shall turn up the dealer's facedown card (hole-card-no-peek method) or deal a second card face upwards to the dealer (no-hole-card method). However, for the no-hole-card method, a dealer shall remove the dealer's second card from a dealing shoe and, without looking at the value of the card, place it beside the dealer's first card. Then, a dealer shall announce the total card count of the two cards. A dealer shall play the dealer's hand as follows:
 - a. If a dealer's faceup card is an ace and the dealer's hand is not a natural twenty-one, the dealer shall immediately, starting with the player to the dealer's right and moving left around the table, collect all the players' insurance bet chips, with the dealer's right or left hand, in a sweeping motion, and place them in a chip tray. A dealer may not use the right and left hand at the same time. Then, for all the players' busted hands that have been split, doubled-down, or both, a dealer shall immediately, starting with the player to the dealer's right and moving left around the table, collect the chips of busted hands, with the dealer's right or left hand, in a sweeping motion. A dealer may not use the right and left hand at the same time. When no other busted hand remains, a dealer shall place the collected chips in a chip tray, collect those players' busted hands, and place the cards in a discard holder. A dealer may, at an organization's option that is consistently applied at a site, collect each player's insurance bet chips and busted hands and related chips with only the dealer's right hand, on a hand-by-hand basis, and place the chips in a chip tray and the cards in a discard holder. Then, for all the players who have been dealt a natural twenty-one, the dealer shall immediately, starting with the player to the dealer's right and moving left around the table, do the payoff according to

subsection 15 or 16, and collect and place those players' cards in a discard holder. If a player's hand remains in play, a dealer shall proceed according to subdivision f or g, and do the payoff procedure on any winning hand according to subsection 15 or 16.

- b. If a dealer's faceup card is a ten-count card and a dealer's hand is not a natural twenty-one, for all the players' busted hands that have been split, doubled-down, or both, the dealer shall immediately, starting with the player to the dealer's right and moving left around the table, collect the chips of busted hands, with the dealer's right or left hand, in a sweeping motion. A dealer may not use the right and left hand at the same time. When no other busted hand remains, a dealer shall place the collected chips in a chip tray, collect those players' busted hands and place the cards in a discard holder. A dealer may, at an organization's option that is consistently applied at a site, collect each player's busted hands and related chips with only the dealer's right hand, on a hand-by-hand basis, and place the chips in a chip tray and the cards in a discard holder. Then, for all the players who have been dealt a natural twenty-one, the dealer shall immediately, starting with the player to the dealer's right and moving left around the table, do the payoff according to subsection 15 or 16, and collect and place those players' cards in a discard holder. If a player's hand remains in play, a dealer shall proceed according to subdivision f or g, and do the payoff procedure on any winning hand according to subsection 15 or 16.
- c. If a dealer's faceup card is an ace, the dealer's hand is a natural twenty-one, and a player has placed an insurance bet, the player wins the insurance wager at the rate of two to one. A dealer shall do the payoff procedure according to subsection 15 or 16. However, if a player's original hand also is a natural twenty-one, subdivision d also applies.
- d. If a dealer's faceup card is an ace or a ten-count card and the dealer's hand is a natural twenty-one, the organization wins all original wagers and original tip bets, unless a player's original hand also is a natural twenty-one which results in a standoff. All other players lose.
- e. If a player has doubled-down or split against a dealer's faceup card of an ace or a ten-count card and the dealer's hand is a natural twenty-one, only the player's original wager is lost unless the player's original hand also is a natural twenty-one which results in a standoff. All separate splitting and doubling-down wagers are voided. A dealer shall return the chips of the separate wagers to the players.
- f. If the count of a dealer's hand is sixteen or under, the dealer shall draw a hit card until the count exceeds sixteen. An additional card

must be dealt face upwards to the immediate right of a dealer's first two cards dealt, from the dealer's perspective, and the dealer shall announce the total card count.

9. If the count of a dealer's hand exceeds sixteen but does not exceed twenty-one, the dealer shall stay (not draw a hit card). At its option, an organization may permit a site to allow a dealer to take a hit card when the dealer has a soft seventeen (ace card and a six). If the organization allows this option, it must be posted at the site. If a dealer's hand contains an ace and a count of seventeen, eighteen, nineteen, twenty, or twenty-one can be obtained by counting the ace as an eleven, a dealer shall value the dealer's hand as such and stay. A dealer shall announce the final total card count of the dealer's hand.
- h. If a dealer's hand busts, the remaining players with active hands win.
11. If a player's original hand is a natural twenty-one and a dealer's faceup card is not an ace or a ten-count card, the player's hand wins and is paid off at a rate of three to two, unless the player chooses to double-down. A dealer's chip payoff on a player's wager may occur immediately or when the dealer, in the order of hands, comes to that player's hand.
12. A wager is won or lost by comparing the total card count of each player's hand to the dealer's hand. A dealer or player with the highest total card count wins. Wagers, including tip bets, are paid off at an equal amount according to subsection 15 or 16. All ties are a standoff - no payoff is made, including on a tip bet.
13. If a player's hand loses against a dealer's hand, an organization wins any tip bet. A dealer shall immediately, starting with the player to the dealer's right and moving left around the table, collect the chips of adjacent losing hands with the dealer's right or left hand, in a sweeping motion. A dealer may not use the right and left hand at the same time. A dealer may, at an organization's option that is consistently applied at a site, collect the chips of losing hands with only the dealer's right hand, on a hand-by-hand basis. When a tie hand is reached, the dealer shall recognize that hand with a tap on the tabletop and announce that it is a push. When a winning hand is reached, a dealer shall place any previously collected chips in a chip tray and do the payoff procedure for adjacent winning hands according to subsection 15 or 16. When a losing hand is again reached, the dealer shall repeat the collection and payoff procedure until all losing wagers have been collected and all winning hands have been paid. The dealer shall then collect all the remaining cards according to subsection 17.

14. If a player's hand wins against a dealer's hand and the player placed a tip bet, the dealer wins the tip bet and the one-to-one payoff from a chip tray according to subsection 15 or 16.
15. If a player's hand wins against a dealer's hand and a table does not have a video surveillance system, the payoff procedure is:
 - a. Normal hand. A payoff chip must be placed beside the original wagered chip in a betting space.
 - b. Split hand. The payoff chip must be placed beside the wagered chips in a betting space.
 - c. Double-down hand. The payoff chips must be placed beside the two wagered chips in a betting space.
 - d. Insurance bet. A payoff chip must be first placed beside the insurance bet chip, fanned, then placed on top of the insurance bet chip and the chips pushed to a player.
 - e. Natural twenty-one. The payoff chips must be pyramided with the higher value chip placed beside the original wagered chip in a betting space and the smaller value chip placed on top over the center of the other two chips.
 - f. Tip bet. A payoff chip must be placed beside the tip bet chip and any double-down chip in the inner table area. Then, a dealer shall place the chips directly in a tip receptacle.
16. If a player's hand wins against a dealer's hand and a table has a video surveillance system, the payoff of each winning hand must be done on a hand-by-hand basis. The payoff procedure is:
 - a. A dealer shall fan all of a player's wagered chips toward the dealer or side with only the dealer's left hand. A dealer may, at an organization's option that is consistently applied at a site, fan all of a player's wagered chips toward the dealer or side with only the dealer's right hand. However, for a site that has a pit boss on duty and the organization requires a double-down wager to equal the original wager, a dealer may, for a player who has placed a split bet or double-down bet, or both, fan only one of the player's stacks of wagered chips. A dealer shall reposition a tip bet chip in the inner table area with the dealer's left hand and fan the chips. A dealer may, at an organization's option that is consistently applied at a site, fan all the players' tip bets and double-down chips after the payoff procedure has been done on all winning players' hands. However, if a player's bet exceeds five dollars, the dealer shall separate the player's chips, by value, fan them in sets of five chips, and then fan any remaining chips. A dealer shall, with the dealer's

right hand, take a chip from a chip tray, equal in value to the player's wagered chips (not tip bet chips), place the payoff chip in a stacked manner beside the wagered fanned chips, fan the payoff chips toward the dealer or side, and move the dealer's hands away from the chips. However, if the prize payoff exceeds twenty casino chips of the same value, the dealer may use a rack to account for one or more sets of twenty chips and fan the remaining chips. A dealer shall repeat this procedure for each separate winning hand.

- b. After the payoff procedure has been done on all winning players' hands and the tip bet chips have been fanned, a dealer shall, with the dealer's right hand, take a chip from a chip tray of the same value as the tip bet chip, place the payoff chip in a stacked manner beside the fanned chips, and fan the payoff chips. A dealer shall repeat this procedure for each separate winning tip bet. Then, a dealer shall move the dealer's hands away from the chips. After a dealer has picked up the cards according to subsection 17, the dealer shall place the chips directly in a tip receptacle.
17. At the end of a round of play, a dealer shall pick up all the cards remaining on the playing surface so that they can be played back to recreate each hand, starting with the player to the dealer's right and moving to the left around the table. After the cards have been collected in a sweep or hand by hand, a dealer shall pick up the dealer's cards against the top of the players' cards and place them in a discard holder.
18. If a table has a video surveillance system, a dealer's shift ends, and the dealer:
 - a. Does not desire to exchange the dealer's tips for other chips in the chip tray, the dealer shall momentarily show both sides of the dealer's hands, with fingers extended, within a camera's view. A dealer shall then take the tip receptacle and leave the table.
 - b. Does desire to exchange the dealer's tips for other chips in the chip tray, the dealer shall take all the chips out of the tip receptacle. A dealer shall place the chips in the inner table area at the dealer's left; sort, stack, and fan only the chips to be exchanged; take chips from a chip tray equal in value to the fanned chips; place the replacement chips at the dealer's right; sort, stack, and fan the chips, momentarily move the dealer's hands away from the chips so the chips are within a camera's view; place the exchanged chips in a chip tray; then place the replacement chips and unexchanged chips in a tip receptacle. A dealer shall then momentarily show both sides of the dealer's hands, with fingers extended, within a camera's view, take the tip receptacle, and leave the table. As an option, a dealer for the next shift may exchange the present dealer's tips.

19. A dealer may not allow a player to touch a card.
20. A dealer may not switch or remove a player's card or chip, pay on a standoff, or do anything to alter a fair and legal outcome of a betting hand.
21. An organization may adopt a policy to allow a dealer, when a player leaves a table, to exchange two or more of the player's casino chips for higher value chips provided that the dealer first asks the player's permission, the player agrees, and the dealer announces the value of chips being exchanged.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-10

99-01.3-08-13. Disclosure. These rules and notice must be disclosed or made available to players:

HOUSE RULES

Betting limit

Use Hole-Card-No-Peek method of dealing

- or -

Use Hole-Card with Card Reading Device method of dealing

- or -

Use No-Hole-Card method of dealing (Choose one)

PLAYER RULES

Must compute the card count of the player's hand

Must be twenty-one years of age or older

Hand signals must be used

No touching of cards

Two betting spaces maximum

No side bets

No payoff on tie counts

Splitting on any pair and two 10-count

value cards and limited

to a maximum of 4 hands per betting space

Doubling-down on the first 2 cards dealt

or the first 2 cards of any split hand, except on split aces

Double-down bet must equal the original wager

- or -

Double-down bet may be equal to or less than the original wager (Choose one)

Insurance not permitted

- or -

Insurance permitted - pays 2 to 1 (Choose one)

Tip betting permitted

- or -

Tip betting not permitted (Choose one)

Doubling-down on tip bets permitted - must may be equal to or less than the original tip bet

- or -

Doubling-down on tip bets not permitted (Choose one)

NOTICE

If a person knowingly uses a fraudulent scheme or technique to cheat or skim involving twenty-one, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-10

99-01.3-08-14. Drop box cash count.

1. A drop box that has been used must be removed from a table by the end of the day's activity. If a drop box is removed from a table and the cash is not counted immediately, the drop box must be transported by the shift manager and, if there is more than one employee on duty, escorted by an employee to a safe storage place. The cash must be removed from the drop box before the drop box can be used for another day's activity. An empty drop box may be stored on a table or in a safe storage place.
2. A drop box must be opened by a two-person count team. The persons must be independent of each other. A count team may be an independent person, ~~including a representative of a financial institution,~~ and a gaming employee; two representatives of a financial institution, accounting firm, security agency, or security company; two nongaming employees; or two gaming employees provided they did not conduct games at the same site on the day of the gaming activity and day of the count. One of these two gaming employees may have conducted games at the site associated with the drop box cash. A ~~For other than independent contractors,~~ a count team may not be two persons who have a direct supervisor and subordinate relationship ~~or include an employee of a lessor unless this employee conducts games as an employee of the organization.~~ A count team member and may not be a common household member, spouse, child, parent, brother, or sister of the other count team member.
3. The key to the lock securing the contents of a drop box must be controlled by one count team member who may not access the drop box unless both count team members are present. If there are two separate locks that secure the contents of a drop box, the key to the second lock must be controlled by the other count team member.
4. Each person shall independently count the drop box cash in the presence of the other person and resolve any difference between the

two counts. Documentation of the count must be initialed and dated by both count team members.

5. An organization shall comply with this rule unless it uses another drop box cash count procedure that has been approved by the attorney general.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-08-15. Tournaments. Except as provided by this section, an organization shall conduct a twenty-one tournament according to this chapter. These rules must be disclosed to players:

1. An organization shall charge a player an entry fee and provide the player a fixed number of no-value chips. ~~Except for mini-tournaments, within a tournament, in which players pay a separate entry fee and the winning players advance to the championship round, the~~ The cumulative entry fee per player, including rebuys or add-ons, for an entire tournament cannot exceed two hundred dollars per player. An organization may allow a player to rebuy or add-on additional chips during a tournament by paying an additional amount which may be less than or equal to the original entry fee. An entry fee has no relationship to the number of chips issued to the player. The chips have no cash redemption value. An organization shall maintain a register of players and their entry fee.
2. An organization may assign a player one or two betting spaces. An organization may use a rotating button to signify the order of betting. If a button is used, it must move clockwise one position after each hand. The organization shall set the time or number of shoes or hands to be played.
3. A player may not move from table to table, temporarily stop playing, remove chips from on top of a table, or transfer chips to or from another player. An organization shall set a minimum bet limit and may set a maximum bet limit based on a number of chips. A bet must be made on each hand. A player may not cash out before the end of play unless the player withdraws.
4. An organization may advance players with the most number of chips from each preliminary round ~~or mini-tournament~~ to the next round or championship round. A player with the most number of chips, based on preliminary rounds, ~~mini-tournaments,~~ or a championship round, wins. An organization may award a prize to the winning player of each ~~mini-tournament~~ preliminary round. However, if two players remain in the tournament, they may agree to split the prize rather than finish the tournament. ~~For a twenty-one tournament, a~~ A cash or merchandise

prize may be awarded. ~~For a poker tournament, only a cash prize may be awarded and the total prizes may not exceed ninety percent of the entry fees.~~

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.2

99-01.3-08-16. Recordkeeping. Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For each day's activity:
 - a. The starting and ending cash and chip banks and IOU records according to section 99-01.3-03-06;
 - b. Drop box cash and values of fill and credit slips of each table;
 - c. For a tournament, prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08;
 - d. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all twenty-one activity for a quarter must reconcile to the tax return; and
 - e. For a video surveillance system, dealer percent-of-hold information and recorded video inventory daily review log that must be retained for one year from the end of the quarter of the activity, ~~and recorded video review record that can be disposed of after thirty days unless it references criminal activity.~~
2. Inventory records according to subsections 4 and 5 of section 99-01.3-03-09.
3. The cash profit ~~(see defined in subdivision h of subsection 6 of section 99-01.3-02-01) which must be,~~ verification of the amount deposited intact according to a bank statement, and an audit of the game's activity according to section 99-01.3-03-10.
4. The count and reconciliation of cash banks and casino and betting chips according to subsection 6 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-09

99-01.3-09-02. Limitations and fees.

1. An organization may only conduct poker on two occasions per year. An occasion may include more than one site. A nontournament occasion is a twenty-four-hour period of play. ~~A tournament occasion is a~~ Tournament activity is an occasion of not more than three consecutive three-calendar-day period calendar days of play. Both tournament and nontournament play can occur as part of the same occasion provided that the nontournament play does not exceed a twenty-four-hour period of play.
2. For nontournament play, if an organization does not provide a dealer, players shall use cash. If an organization provides a dealer, players shall use chips. An organization shall charge a player a fee not to exceed two dollars per one-half hour of playing time and collect the fee in advance. An employee shall record the fee when it is collected. The fee schedule must be disclosed or made available to players.
3. For a tournament, an organization ~~shall~~ may provide a dealer who cannot play in the game or allow the players to alternate as dealers and:
 - a. ~~Comply with section 99-01.3-08-15; or~~ Advance players with the most number of chips from each preliminary round to the next round or championship round. A player with the most number of chips, based on preliminary rounds or a championship round, wins. An organization may award a prize to the winning player of each preliminary round. Any remaining players in the tournament may agree to split the prize rather than finish the tournament.
 - b. ~~Use value no-value chips. An organization may charge a player an entry fee not to exceed two hundred dollars or a fee not to exceed two dollars per one-half hour of playing time, collected in advance. Only a~~ The cumulative entry fee, including rebuys or add-ons, for a tournament cannot exceed two hundred dollars per player. Only a cash prize may be awarded and the total prizes may not exceed ninety percent of the entry fees.
4. An organization that conducts poker through a "poker run" involving more than one site shall comply with guidelines prescribed by the attorney general.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.2

99-01.3-09-03. Disclosure. These rules must be disclosed or made available to players:

HOUSE RULES

Must use one deck of cards
dealt out of the hand

Must use a cut card to conceal the bottom card of the deck

May allow a blind bet and set a minimum table limit

May allow ~~an ante up to one dollar and set~~ a minimum ante

May allow a maximum of three raises per round

Must limit each raise to an amount equal to
or greater than the original bet; however, each
raise must be equal to or greater than the original
bet of that betting round

PLAYER RULES

Must be twenty-one years of age or older

No side bets or credit

History: Effective May 1, 1998; amended effective July 1, 2002; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.2

99-01.3-09-04. Recordkeeping. Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For each poker occasion:
 - a. The starting and ending cash on hand and chips according to section 99-01.3-03-06;
 - b. ~~The fees collected, rebuys, add-ons, and number of players for tournament play, and for~~ For nontournament play, the fees collected for each one-half hour interval on each table, number of players, time each fee is collected and the name, signature, and time worked of the employee who collected the fee;
 - c. For a tournament play, prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08 the fees, rebuys, and add-ons collected, name of each player, and signature and date of the employee who collected the fee;
 - d. ~~Name, initials, and time worked of the employee who collected the fee~~ For tournament play, prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08; and

- e. A summary of gross proceeds, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all poker activity for a quarter must reconcile to the tax return.
2. Inventory records according to subsection 4 of section 99-01.3-03-09.
3. The cash profit ~~(see defined in subdivision i of subsection 6 of section 99-01.3-02-01)~~ which must be, verification of the amount deposited intact according to a bank statement, and an audit of the game's activity according to section 99-01.3-03-10.
4. The count and reconciliation of cash banks according to subsection 6 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-10

99-01.3-10-02. Recordkeeping. Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For each calcutta:
 - a. A calcutta board with the state gaming stamp affixed indicating the winning competitor and player. ~~The board must be retained for one year from the end of the quarter of activity;~~
 - b. The starting and ending cash on hand and IOU records according to section 99-01.3-03-06;
 - c. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all calcuttas conducted for a quarter must reconcile to the tax return; and
 - d. Prize register according to section 99-01.3-03-07 and record of win according to section 99-01.3-03-08.
2. Inventory records according to subsections 1 and 4 of section 99-01.3-03-09.
3. The cash profit ~~(see defined in subdivision j of subsection 6 of section 99-01.3-02-01) which must be~~ verification of the amount deposited according to a bank statement, and an audit of the game's activity according to section 99-01.3-03-10.
4. The count and reconciliation of calcutta boards and cash banks according to subsection 6 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-11

99-01.3-11-03. Paddlewheel, table, chips, and video surveillance system.

1. A paddlewheel is a round mechanical vertical wheel, at least thirty inches [76.2 centimeters] in diameter, and may be divided into a maximum of five concentric circles. The outer circle must contain at least forty numbers or symbols. A paddlewheel may have house numbers or symbols for an optional odd or even bet. Each inner circle may contain up to one-half of the number of numbers or symbols as that circle's adjacent outer circle. The numbers and symbols may repeat on a circle. Each circle must be divided into equally spaced sections, be a different primary color, and correspond to the colored numbers or symbols of a table playing surface. The colored numbers or symbols of all concentric circles must be at least five-eighths of one inch [15.88 millimeters] in height.
2. A peg must protrude, on the circumference of a paddlewheel, between each section of the outside circle. A pointer must be positioned above a paddlewheel. It is used to stop a spin of a paddlewheel and determine the winning colored number or symbol.
3. A table must have:
 - a. A chip tray and a rail for holding a player's chips;
 - b. A playing surface which must be permanently imprinted with colored numbers or symbols of at least one and one-half inches [3.81 centimeters] in height relating to each circle of a paddlewheel. A table may have spaces for various wagers, including sets of numbers, colored numbers, symbols, and "ODD" and "EVEN" bets;
 - c. Either a mirror to reflect or a color video camera and monitor to display the winning colored number or symbol on the paddlewheel; and
 - d. A "drop box" must have a money plunger which must remain in the slot unless the plunger is used.
4. An organization shall issue solid color-coded sets of chips for betting purposes. No betting chip can be the primary color of mustard yellow. The number of different sets and number of chips within each set is based on an organization's discretion. Each chip must be one and nine-sixteenths inches [39.62 millimeters] in diameter and be permanently impressed, engraved, or imprinted on one side with an organization's name and the other side may have a stated value of one dollar. The name may be represented by a unique identification that

differentiates an organization's chips from other organizations' chips. Each chip is valued at one dollar. An organization shall issue casino chips in values of one dollar, five dollars, twenty-five dollars, and one hundred dollars for paying a winning bet or exchanging a betting chip. A casino chip must meet the specification of subsection 3 of section 99-01.3-08-03.

5. An organization shall have a picture-in-picture video surveillance system on a table and paddlewheel. The system must meet the specifications and requirements prescribed by subsections 1, 2, 3, 5, 6, 7, 8, 9, and 10, ~~and 11~~ of section 99-01.3-08-04.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.4

99-01.3-11-05. Conduct and play.

1. An organization may limit the number of players and may require a minimum number of players to open a table.
2. A player shall buy a betting chip with currency or may exchange a casino chip for a betting chip. Only a betting chip can be used to place a bet.
3. The maximum betting limit of a player for each spin is twenty dollars. Each chip is a separate chance to win. Unless an organization has a restrictive policy, a player may bet more than one chip on the same colored number or symbol for a spin. To bet, a player shall place a chip on the betting layout of a table. If a player's total bet exceeds a value of twenty dollars or exceeds an organization's maximum wager on a spin, the bet is void and the organization shall adopt a policy that a player's chips ~~in excess of the bet limit or all of the player's chips~~ of the voided bet are returned to the player. A player may not place a tip bet for a wheel operator.
4. After all the players have bought a betting chip and before a paddlewheel is spun, a wheel operator shall announce that the players' bets for the next spin must now be placed. A wheel operator may place a chip for a player if the wheel operator first states, in a voice loud enough to be heard by all the players at a table, that the player is being assisted. When a wheel operator has determined that no other person desires to bet, the wheel operator shall announce bets closed. Thereafter, a player may not bet or touch any placed betting chip or obstruct the view of the playing surface until after a wheel operator pays off all winning wagers. A wheel operator shall double spin a paddlewheel by pulling it in a downward or upward direction and releasing it. While the paddlewheel is in motion, a wheel operator shall again pull it in a consistent downward or upward direction. A

paddlewheel must rotate at least four full unrestricted revolutions. Otherwise, the spin is void and a paddlewheel must be spun again.

5. When a paddlewheel stops, a wheel operator shall announce the winning colored number or symbol in a tone of voice loud enough to be heard by all the players at a table. The announcement must be in sequence of the outermost circle first to the innermost circle last. A wheel operator shall first remove all losing betting chips from the table and place them in the chip tray. Then, a wheel operator shall pay off the winning betting chips in the sequence of the bets that are most accessible to the players first and to the bets that are least accessible to the players last.
6. To pay off a winning bet, a wheel operator shall fan all of a player's betting chips toward the wheel operator or side. A wheel operator shall take a betting chip or chips of the same color as the winning chip or casino chip, equal to the prize amount of the winning bet, from the chip tray, place the betting or casino chips in a stacked manner beside the wagered fanned betting chips, fan the payoff chips toward the wheel operator or side, and momentarily move the wheel operator's hands away from the chips so they are within a camera's view. However, if the prize payout exceeds twenty betting or casino chips of the same value, the wheel operator may use a rack to account for one or more sets of twenty chips and fan the remaining payoff chips.
7. A tip for a wheel operator must be made with a betting or casino chip. If a tip is made with a betting chip, a wheel operator shall immediately exchange the betting chip for a casino chip in the inner table area, momentarily move the wheel operator's hands away from the chip so it is within a camera's view, place the betting chip in the chip tray and casino chip in the tip receptacle. When the wheel operator's shift ends, the wheel operator shall take the tip receptacle and leave the table.
8. If a player desires to redeem a betting chip, an organization shall exchange the betting chip for a casino chip at the paddlewheel table. A player may redeem a casino chip with the cash bank cashier or use it in the game of twenty-one.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.4

99-01.3-11-06. Disclosure.

1. These rules and notice must be disclosed or made available to players:
 - a. A player may not bet chips that exceed a value of twenty dollars for one spin.

- b. A player must bet by placing a betting chip properly on the betting layout.
 - c. A player may not touch a betting chip after the wheel operator announces "bets closed" or obstruct the view of the playing surface until after a wheel operator pays off all winning wagers.
 - d. A paddlewheel must make at least four revolutions.
 - e. If a pointer stops on top of a peg, the number preceding the peg is the winning number.
 - f. A winning odd or even bet is determined by a winning number of only the designated colored circle. However, a player loses all odd and even bets if the pointer stops on a designated house number. This must be disclosed or made available to players if an odd or even bet is accepted.
 - g. A player may not take a betting chip away from the table and must be at the table to win. Otherwise, the ~~player shall forfeit the betting chip~~ player's bet is void.
 - h. If a player stops playing and has an unused betting chip, the player must exchange the betting chip for a casino chip through the wheel operator before the player leaves the table.
2. Prize information must be disclosed, made available to players, or stated on a table playing surface. The information must reference each differently colored number or symbol, including an optional odd or even bet, and state each prize payoff. The payoff is the relationship of the prize to a winning betting chip. The payoff must be stated as "_____ to _____" or "_____ for _____". For example, for a red-colored number or symbol which pays forty dollars for a winning betting chip, the information must reference the red-colored number or symbol and state the payoff as "EXACT NUMBER RED 40 to 1".
 3. A notice that if a person knowingly uses a fraudulent scheme or technique to cheat or skim involving paddlewheels, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.4, 53-06.1-16

99-01.3-11-07. Recordkeeping. Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For paddlewheel activity described by subsection 1 of section 99-01.3-11-01:
 - a. For each day's activity, the starting and ending cash banks and IOU records according to section 99-01.3-03-06;
 - b. For each ticket card of each series of paddlewheel ticket cards:
 - (1) Date conducted, card number, cash prize amount or cost and description of a merchandise prize; ~~and~~
 - (2) ~~The flare with all~~ All winning tickets and unsold ticket cards which must be retained for one year from the end of the quarter in which the activity was reported on a tax return; and
 - (3) The flare with the state gaming stamp affixed;
 - c. Inventory records according to subsection 1 of section 99-01.3-03-09;
 - d. The count and reconciliation of each series of paddlewheel ticket cards according to subsection 6 of section 99-01.3-03-09;
 - e. Prize register according to section 99-01.3-03-07; and
 - f. Purchase invoice or receipt documenting the cost of a merchandise prize.
2. For paddlewheel activity described by subsection 2 of section 99-01.3-11-01:
 - a. The starting and ending cash and chip banks and IOU records according to section 99-01.3-03-06;
 - b. Drop box cash and values of fill and credit slips;
 - c. Wheel operator percent-of-hold information and ~~recorded video inventory~~ daily review log must be retained for one year from the end of the quarter of the activity; ~~and recorded video review record that can be disposed of after thirty days unless it references criminal activity;~~
 - d. Inventory records according to subsection 5 of section 99-01.3-03-09; and
 - e. The count and reconciliation of casino and betting chips according to subsection 6 of section 99-01.3-03-09.

3. For all paddlewheel activity:
 - a. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all paddlewheel activity for a quarter must reconcile to the tax return;
 - b. The cash profit (~~see defined in subdivisions h and k of subsection 6 of section 99-01.3-02-01) which must be, verification of the amount deposited intact according to a bank statement, and an audit of the game's activity according to section 99-01.3-03-10;~~
 - c. Inventory records according to subsection 4 of section 99-01.3-03-09; and
 - d. The count and reconciliation of cash banks according to subsection 6 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-12

99-01.3-12-02. Use and requirements of an organization.

1. An organization may operate a pull tab dispensing device when the organization's employee is on duty and may have a bar employee redeem a winning pull tab when the organization's employee is or is not on duty.
2. If a distributor's or manufacturer's security seal is broken on a deal's container before the deal is used, an organization shall return the deal to the distributor.
3. An organization shall disclose or make these rules available to players:
 - a. Restricting access to or delaying using credits on a device is prohibited;
 - b. A winning pull tab must be redeemed within fifteen minutes;
 - c. A pull tab cannot be redeemed if it has been taken from the gaming area;
 - d. If a person knowingly solicits, provides, or receives any inside information, by any person, by any means, or knowingly uses a fraudulent scheme or technique to cheat or skim involving pull tabs, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both; and
 - e. If a player attempts to falsify or falsifies a record of win, the prize is forfeited.
4. An organization shall maintain custody of all keys to a device. However, an organization may provide an authorized employee of a bar with a key to the cash compartment to withdraw currency or a drop box if:
 - a. A device's cash compartment is separate from its pull tab and accounting meter compartments. However, if access to a device's accounting meters is controlled by a security code, the cash and accounting meters may be in the same compartment;
 - b. The organization authorizes a specific employee of a bar to withdraw cash and complies with section 99-01.3-02-02 regarding a record check on the employee; and
 - c. If a drop box is not used, an authorized employee of a bar shall count the cash, record the amount, sign and date the record, and

secure the cash and record in a keyless locking bank bag. If a drop box is used, an organization may not provide the authorized employee of a bar the key to access the contents of the drop box.

5. An organization shall withdraw currency from a device within a seven-calendar-day interim period.
6. An organization shall use the current recordkeeping system ~~prescribed~~ by unless approval is obtained from the attorney general for use of another system.
7. An organization shall have a rental agreement conforming to section 99-01.3-02-06.
8. An organization shall maintain an access log prescribed by the attorney general. A person who accesses a device for any reason shall record the access and initial the log. When a person does a test vend or a test validation of currency, the person shall record the value of pull tabs and currency validated. An organization shall retain the log in a device during the quarter of activity.
9. An organization may provide a bar with a temporary loan to enable a bar employee to redeem a winning pull tab. A loan and any increase in the loan must be made by check payable to the bar and be interest free. An organization may not access, count, or take custody of the loaned money. The duration of the loan must be until an organization discontinues conducting pull tabs at a site through a device. When the bar repays the loan, the organization shall deposit the funds in its gaming account and the deposit slip or receipt must reference the site, source of funds, and amount. The amount reimbursed to a bar must equal the value of redeemed winning pull tabs which the bar provides an organization. An organization employee may not use a bar's cash on hand for redeeming a winning pull tab.
10. An organization may not provide an independent service technician a key to access a device regardless if the device is leased.
11. If a theft of currency occurs, an organization shall record the currency and pull tab or bingo card accounting meters or print a cash withdrawal report and audit the game. The organization shall provide a copy of all of this information to a local law enforcement agency and the attorney general.
12. When a game is closed:
 - a. The game must be reported on a tax return for the site at which it was closed;

- b. An employee shall buy back all remaining redeemed winning pull tabs from a bar; and
 - c. If the game has unsold pull tabs, these cannot be put back into play.
13. An organization or employee may not:
- a. Modify the assembly or operational functions of a device;
 - b. Use or continue to conduct a deal of pull tabs after being notified by a distributor of a ban or recall of the deal;
 - c. Designate a pull tab to entitle a player who buys it with a prize provided by a bar or distributor; or
 - d. Intentionally test vend currency or pull tabs to synchronize nonresettable accounting meters.
14. A game must be conducted and played through a device as follows:
- a. Except for a game serial number and color of the pull tabs, the deals must be identical;
 - b. An employee shall securely attach a master flare to the interior or exterior of a device, or on an adjacent wall, so the flare's information is visible to players. When a deal is added, the deal's flare may be retained in a device or at an organization's office;
 - c. An employee shall place at least one complete and one-third to one-half of a second deal in a device at the same time at the start of a game. The remaining pull tabs of any partial deal must be stored onsite and added to the game before the game is closed any additional deals may be added. If during the quarter a deal is added to a game and the complete deal's tickets will not fit in a device, any remaining pull tabs of the partial deal must be stored onsite and added to the game before any additional deals may be added;
 - d. If a device does not have a tray, at the start of a game the pull tabs must be randomly placed in all the stacking columns. To add pull tabs to a game, an employee shall first add any remaining pull tabs of a deal previously partially placed in the device or pull tabs of a new deal by randomly mixing these pull tabs with the pull tabs in the device;
 - e. If a device has a tray, at the start of a game the pull tabs from one deal must be placed in two stacking columns and at least one-third to one-half of the pull tabs from a second deal must be placed in

two other stacking columns until full. Next, any leftover pull tabs from the first deal must be placed in any remaining empty column. Then, the pull tabs in the columns must be evened out. To add pull tabs to a game, an employee shall first add any remaining pull tabs of a deal previously partially placed in the device or pull tabs of a new deal by taking the unsold pull tabs from all, except two, of the columns and placing them on top of the unsold pull tabs of those two columns. Next, the employee shall place any overflow of unsold pull tabs and the partial or new deal's pull tabs in the empty columns until full and then place leftover pull tabs in those two other columns. Then, the pull tabs in the columns must be evened out;

- f. If a deal is to be added to a game and an organization does not have a deal to add, the organization shall temporarily suspend the game until it procures a deal. However, if the organization is unable to procure a deal from the distributors and all the top tier winning pull tabs have been redeemed, it may close the game;
- g. If a site's total gross proceeds of pull tabs averages twelve thousand five hundred dollars or less per quarter or if a site has not previously had gaming, a game may be closed anytime if all top tier winning pull tabs have been redeemed;
- h. Except as provided by subdivision i, if a site's total gross proceeds of pull tabs averages more than twelve thousand five hundred dollars per quarter, no game may be closed unless an organization discontinues gaming at the site, or all the top tier winning pull tabs have been redeemed and:
 - (1) Fifty deals have been added to a game;
 - (2) A game's actual gross proceeds are twenty-five thousand dollars; or
 - (3) A game has been in play for twenty-five consecutive calendar days;
- i. An organization shall close a game by the end of a quarter. If all top tier winning pull tabs have been redeemed or low-level switches in all but two columns of a device have been triggered, an organization may close a game for the quarter within fourteen calendar days before the end of that quarter. An organization may start a new game for the next quarter within fourteen calendar days before the next quarter begins. However, an organization may not start a new game and end that game within this fourteen-calendar-day period. When a game is being closed, an employee shall post a sign stating that the game is being sold out;

- j. If the percent-of-accuracy of all the games involving a device for a site for the previous quarter was less than ninety-eight and one-half percent, an employee who did not conduct the game shall do a weekly interim audit of the games at the site for up to twelve continuous weeks or until the organization determines, resolves, and documents the cause. One of the weekly interim audits may be the audit required by subsection 7 of section 99-01.3-03-10. An organization shall start the weekly audits no later than the date on which its tax return for the quarter was filed with the attorney general. However, if games involving a device are conducted without a bar employee redeeming a winning pull tab, pull tab games not involving a device are also conducted, and the combined percent-of-accuracy of all pull tab games at the site for the previous quarter was ninety-eight and one-half percent or greater, no weekly interim audit is required. Percent-of-accuracy is computed as cash profit divided by adjusted gross proceeds; and
 - k. An organization may transfer a device from a site to another site or rotate a device among sites. If an organization discontinues gaming at a site, it may close a game or transfer the game to a device at another site. If a game is in the process of being conducted through a device, an organization may not transfer the game to a jar bar.
15. Two or more organizations may use devices at the same site on different days of the week provided the organizations use different names of games in the devices and the bar uses separate cash banks.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-12-05. Recordkeeping. Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. All redeemed and unsold pull tabs for a game and be retained as documentation for gross proceeds and prizes for one year from the end of the quarter in which the activity was reported on a tax return;
2. The deal's game information sheet and flare with the state gaming stamp affixed ~~and be retained for three years from the end of the quarter in which the game was reported on a tax return;~~
3. A record of game serial numbers for each game;
4. Record of win according to section 99-01.3-03-08;

5. Credit redemption register, including the date, amount, if credits were still on the device, player's name and signature, signature or initials of person who paid the player, bar reimbursement information if applicable, and date paid;
6. If an employee redeems winning pull tabs at a site, a daily employee report documenting the starting and ending cash on hand and IOU records according to section 99-01.3-03-06, and prizes redeemed by prize value, total prizes, and number of redeemed top tier pull tabs by game serial number;
7. Interim period site summary, including meter readings, gaming stamp number and game serial number of a deal added to a device, currency withdrawn, redeemed prizes by denomination obtained from a bar, total prizes, total prizes credited through the device if applicable, information on top tier winners redeemed by game serial number, credit redemption register refunds, cash profit or loss, and bank deposit;
8. Summary, including cumulative prizes, cash profit, bank deposits, and redeemed top tier pull tabs by game serial number; A summary that includes the following:
 - a. Number of redeemed top tier pull tabs by game stamp and serial number, cumulative cash profit (loss), bank deposits, and prizes;
 - b. Reconciliation of nonresettable meters for currency and the number of pull tabs dispensed to the currency in the device and to the value of the pull tabs dispensed; and
 - c. Ideal gross proceeds, value of unsold pull tabs, gross proceeds, prizes, adjusted gross proceeds, cash profit, and cash long (short). The summaries of all games for a quarter must reconcile to the tax return;
9. Inventory records according to subsections 1 and 4 of section 99-01.3-03-09;
10. Access log, including the date, time, nonresettable currency meter reading, reason for entry, and initials of the employee;
11. A summary of ideal gross proceeds, value of unsold pull tabs, gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all games for a quarter must reconcile to the tax return;
12. The cash profit (see defined in subdivision d of subsection 6 of section 99-01.3-02-01) for an interim period which must be, verification of the amount deposited intact according to a bank statement, and an audit of the game's activity according to section 99-01.3-03-10; and

~~43-~~ 12. The count and reconciliation of deals and cash banks according to subsection 6 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-13

99-01.3-13-05. Recordkeeping. Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For each interim period:
 - a. A prize flare with the state gaming stamp affixed for each deal of a game and test vended, redeemed, and unsold bingo cards must be retained for one year from the end of the quarter in which the activity was reported on a tax return;
 - b. Record of win according to section 99-01.3-03-08;
 - c. Record of called bingo numbers;
 - d. Credit redemption register;
 - e. If an employee redeems winning bingo cards at a site, a daily employee report documenting the daily starting and ending cash on hand and IOU records according to section 99-01.3-03-06 and prizes redeemed;
 - f. Interim period site summary, including meter readings, gaming stamp number and game serial number of a deal added to a device, currency withdrawn, redeemed prizes by denomination obtained from a bar, total prizes, credit redemption register refunds, cash profit or loss, and bank deposit;
 - g. Summary, including cumulative prizes, cash profit, and bank deposits;
 - h. Inventory records according to subsections 1 and 4 of section 99-01.3-03-09; and
 - i. Access log.
2. A summary of ideal gross proceeds, value of unsold bingo cards, gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. The summaries of all interim periods for a quarter must reconcile to the tax return.
3. The cash profit (~~see defined in subdivision d of subsection 6 of section 99-01.3-02-01~~) for an interim period which must be, verification of the amount deposited intact according to a bank statement, and an audit of the game's activity according to section 99-01.3-03-10.

4. The count and reconciliation of deals and cash banks according to subsection 6 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-14

99-01.3-14-02. Eligible uses.

1. A use of net proceeds for erecting, acquiring, improving, maintaining, or repairing real or personal qualifying property owned by an organization is an eligible use provided the organization agrees that, upon abandoning the exclusive use of the property for an eligible use, it will transfer the property to a governmental unit or to an organization that will use it for an eligible use. However, if an organization sells the property, the portion of net receipts from the sale related to the original net proceeds must be deposited in the trust account and disbursed to an eligible use, or reinvested in property used for a similar purpose.
2. In applying subdivision a of subsection 2 of North Dakota Century Code section 53-06.1-11.1, net proceeds must be disbursed to or by a recognized nonprofit city or county job development authority or certified or noncertified local development corporation.
3. In applying subdivision b of subsection 2 of North Dakota Century Code section 53-06.1-11.1, net proceeds must be used to attract in-state and out-of-state visitors by publicizing attractions, promoting, planning, conducting, and sponsoring market research, trade shows, meetings, conventions, seminars, sporting events, and festivals, and by developing and promoting the state's attractions, recreational opportunities, shopping malls, and other tourism-related activities. Uses may not directly benefit a for-profit business.
4. In applying subdivision c of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include:
 - a. A scholarship for a student. A scholarship may be based on criteria, including community service, patriotism, leadership, education, talent, athletic ability, course of study, or special disability. No scholarship award may be decided by a donor organization, unless the organization administers an education program for special students or students inflicted with disease. Net proceeds may be disbursed to a scholarship board or to an educational institution. A majority of the members of a scholarship board may not be members of a donor organization. A disbursement must be payable to an educational institution and a recipient, scholarship board and a recipient, or to an educational institution or scholarship board. A student receiving a scholarship may apply it at a nonprofit public, or for-profit or nonprofit private, educational institution, including a trade or business school, registered with or accredited by any state board. A scholarship may be for housing, books, tuition, and meals that relate to a student's educational need. A scholarship may be awarded through a pageant, contest, or tournament; however, associated administrative and operating

expenses do not qualify. No scholarship may be based on criteria that includes a person's physical appearance;

- b. Supplemental assistance to a primary, secondary, or postsecondary nonprofit educational institution, including affiliated alumni associations, booster clubs, parent-teacher councils, and college sororities and fraternities. Net proceeds may be used for youth activities, educational equipment, musical instruments, playground equipment, extracurricular activities, sporting events, field trips, cultural exchanges, maintenance of buildings, remodeling, fixed assets, administrative and operating expenses, and supplies;
- c. Assistance to a library for maintenance of buildings, remodeling, fixed assets, administrative and operating expenses, supplies, program services, special events, promotions, educational material, books, computer systems, information services, exhibits, story hours, film showings, and discussion groups. A disbursement to a museum may be for maintaining buildings, remodeling, fixed assets, administrative and operating expenses, and assembly of exhibits for preservation, collection, education, and interpretation;
- d. Assistance to a nonprofit performing arts and humanities organization for studio and auditorium rental, speaker fees, equipment, travel, administrative and operating expenses, and uniforms. Functions may include children's theater, summer camps, and developing art parks;
- e. Preservation of cultural heritage, including restoring, reconstructing, improving, or preserving public buildings in North Dakota which are listed in the state historic sites registry or the national registry of historic places. Net proceeds may be used for programs of nonprofit organizations that provide historical information or tell a story about a local region, North Dakota, or the nation and which primarily educate and inspire the public, elderly, disabled, schoolchildren, teachers, and foreign visitors. Qualifying programs include the lifestyles and human experiences of homesteaders, immigrants, Indian culture, frontier army, and fur trade. Net proceeds may be used for interpretive programming, including exhibits, publications, simulations of life, classroom outreach services, audiovisual presentations, special events, and tours. Special events such as chautauquas and community celebrations of Norskfest, threshing bees, and Octoberfest qualify for expenses of parades, displays, equipment, educational materials, and awards. School reunion expenses do not qualify;
- f. Youth community and athletic activities open to all youth, less than eighteen years of age. An organization shall disburse, to the extent possible, equal amounts to activities for each gender. Net proceeds

may be used for uniforms, equipment, tournament fees, private and public ground transportation, coaches' salaries and mileage, judges, field trips, speaker fees, father-son and mother-daughter banquets provided that the meals for these banquets are provided free, meals, and lodging. Meals and mileage may not exceed the state per diem rate and lodging expenses must be documented with a receipt;

9. Adult amateur athletic activities within North Dakota. Net proceeds may be used for sponsorship and league fees for entire teams, uniforms, umpire fees, construction, use and maintenance of a sports complex, and team equipment. Uniforms and equipment must be owned by the team or league association. Tournament fees, individual player fees, food and drink, lodging, trophies, prizes, yearbook, advertising, and private or public transportation expenses do not qualify, except transportation expenses for a disabled player. A race car, horse racing, and similar activity do not qualify;
 - h. Maintenance of religious buildings, remodeling, fixed assets, administrative and operating expenses, gospel outreach programs, youth church activities, uniforms for a choir, furnishings, and supplies for church groups and services; and
 - i. Scientific research for a cure to relieve human beings of disease and suffering.
5. In applying subdivision d of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include:
- a. Food, temporary housing, clothing, utilities, medical services, and fuel for private and public transportation for an individual or family suffering from poverty or homelessness, or financial distress due to a natural disaster or medical problem;
 - b. Purchase and maintenance of a ground transportation vehicle for the elderly;
 - c. Services for abused persons, including to:
 - (1) Provide emotional support, guidance, and counseling to victims of crimes of rape and sexual assault and encourage prosecution of perpetrators;
 - (2) Establish educational programs about rape, sexual assault and incest, the dramatic effects it has on victims and their families, and the cost to society;

- (3) Establish and direct services for abused spouses and their children in the community, including advocacy, emergency shelter and food, information services, referrals, and peer support; and
 - (4) Develop and coordinate programs to encourage and assist development of a strong volunteer advocate network;
- d. Support for youth centers and halfway houses;
 - e. Recognize an individual or group of people who volunteer their time to community services, nursing homes, or hospitals if a gift, prize, or other gratuity does not exceed one hundred dollars per person per calendar year;
 - f. Net proceeds may be used for public or private nonprofit nursing homes, day care centers, and medical facilities for maintaining buildings, remodeling, fixed assets, administrative and operating services, supplies, reading programs, and craft activities for patients;
 - g. Complying with the Americans with Disabilities Act of 1990 by remodeling a publicly owned facility; and
 - h. To remodel or improve a fraternal or veterans' organization's owned facility or a nonprofit community facility to make it accessible or usable to youth, senior citizens, people with disabilities, and nonmembers of the organization, for community programs, services, or functions. The community must use a building for free or a reasonable fee. To make a building accessible, net proceeds may be used to widen doorways and hallways, remodel bathroom fixtures and facilities, install chair lifts, wheelchair ramps, elevators, handrails, and automatic door openers. To make a building usable, net proceeds may be used to repair a building to meet a building code or make it structurally fit for use, to enlarge a facility, replace a furnace, water heater, and air-conditioner, and to make it safe. The cost must be prorated to the benefit the community receives in relation to the total usage of the facility as determined by the attorney general.
- 6. In applying subdivision e of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include burial expenses and flowers provided an organization does not discriminate between members and nonmembers.
 - 7. In applying subdivision f of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include promotion and celebration of civil rights, nondiscrimination, patriotism, and freedom. State and national convention expenses; recognition nights that may include a

banquet, program, and dance for past commanders or past members; ceremonial and ritual activities; and purchase of a transportation vehicle do not qualify.

8. In applying subdivision g of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include maintaining parks and perpetual trust funds for public cemeteries.
9. In applying subdivision j of subsection 2 of North Dakota Century Code section 53-06.1-11.1, net proceeds may be used for subsistence for a family member traveling with an ill family member to an out-of-town medical facility.
10. In applying subdivision l of subsection 2 of North Dakota Century Code section 53-06.1-11.1, eligible uses include:
 - a. Adult and city bands, choirs, drum and bugle corps, color and honor guards, parade floats, director fees, rent of storage, postage, insurance, laundry, utilities, uniforms, gun safe, firearm, sheet music, audio system, instruments, transportation vehicle, in-state lodging, and private and public ground transportation for performances at community concerts, homecomings, open houses, parades, festivals, funerals, nursing homes, hospitals, and special events. For only a color or honor guard, net proceeds may be used to pay a member a maximum per diem ~~of twenty dollars for each day of actual service~~ not to exceed the daily funeral service rate paid to members of the armed forces ready reserve. An audio system and instruments must be owned by a band, choir, or organization. A vehicle must be owned by an organization;
 - b. Community celebrations that recognize or honor the military service of individuals in the armed services;
 - c. Educational agricultural trade shows and conventions held in North Dakota. Meals and entertainment do not qualify;
 - d. Nonprofit organizations that protect animals. Uses include:
 - (1) Hatcheries and wildlife preserves, wetlands, and sanctuaries;
 - (2) Teaching and promoting ecology, game and wildlife management, and outdoor interests involving animals, fish, and birds; and
 - (3) Spay and neuter programs, pet placement, lost and found pet services, educational programs, investigations of animal abuse, and information services;

- e. Preserving and cleaning up the environment, including air quality, water quality, waste and recycling programs, and conservation of natural resources; and
 - f. Outreach public medical care.
11. In applying subdivision m of subsection 2 of North Dakota Century Code section 53-06.1-11.1, a special trust fund:
- a. Must be managed and controlled by trustees, who may be board members, appointed by an organization. However, if an organization dissolves, it must establish a nonprofit corporation limited to the primary purpose stated in its declaration of trust. A trust may be revocable or irrevocable; and
 - b. Must be comprised only of net proceeds which can be disbursed to the trust periodically or in a lump sum. Net proceeds must be invested only in marketable securities. A trust's principal, interest, dividends, and gains on sales of investments must be applied toward the trust's primary purpose. No trust's principal can be disbursed until a donor organization has permanently discontinued conducting games or dissolved.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01, 53-06.1-01.1

CHAPTER 99-01.3-15

99-01.3-15-02. Restrictions and requirements.

1. A licensed organization, organization that has a permit, or licensed manufacturer may not be a distributor. A person who is an officer, manager, gaming manager, or member of a governing board of a licensed organization or organization that has a permit may not be an officer, director, shareholder, proprietor, independent contractor, consultant, or employee of a distributor, nor have a financial interest in that distributor. A person having a financial interest in a distributor may not be a lessor of a site to an organization that is an active customer of that distributor. A change in ownership of a distributor must be immediately reported to the attorney general.
2. A distributor shall have an office in North Dakota where records must be kept.
3. An officer, director, shareholder, agent, or employee of a distributor may not:
 - a. ~~Directly or indirectly play~~ Play a game of pull tabs, club special, tip board, prize board, seal board, sports-pool board, or punchboard at any site, or provide bookkeeping services, including summarizing or auditing games, to an organization; or
 - b. Interfere with or attempt to influence a lessor's relationship with an organization involving a lease agreement, interfere with or attempt to influence an organization's management, employment practices, policy, gaming operation, or disbursement of net proceeds, ~~attempt to influence a bar to enter into or cancel a lease agreement with an organization,~~ or procure a site for an organization. A distributor may notify an organization of an available site.
4. A distributor may not have an expressed or implied agreement with another distributor to restrict the sales of either of them to a specific geographic area or organization.
5. A distributor may not sell or provide a drop box unless it is a double-locking removable metal container and has:
 - a. One lock that secures a drop box to the underside of a table, and one or two separate locks that secure the contents placed into the drop box. The key to each of the locks must be different; and
 - b. A slot opening through which currency and forms can be inserted into a drop box. The slot of a drop box may not exceed three and one-half inches [88.90 millimeters] in length and one-half inch [38.10 millimeters] in width. Inside a drop box there must be a

spring-loaded mechanism that automatically closes and locks the slot opening when the drop box is removed from a table.

6. A distributor may not sell or provide twenty-one and paddlewheel (betting and casino) chips to an organization if those chips are identical in physical characteristic to chips previously sold or provided by that distributor to a different organization.
7. A distributor may not give a gift, trip, prize, or other gratuity valued singly or in the aggregate in excess of one hundred dollars per employee per calendar year related to a licensed organization or organization that has a permit. A distributor may not loan money (excluding credit) to a licensed organization or organization that has a permit, or to an employee of such an organization.
8. An employee of a distributor who is an owner or salesperson shall, within thirty days of starting business or employment, request training from the attorney general. The training must include the gaming law, rules, and recordkeeping. An employee shall read and acknowledge in writing, within thirty days of employment and the effective date of new gaming laws or rules, that the person has read and understands the provisions of the gaming law and rules which relate to the person's job duties. The attorney general shall designate the provisions to be read. The acknowledgment must be dated, reference the provisions, and be part of the person's personnel file.
9. A distributor may not share an office or warehouse facility with an organization.
10. A distributor shall file a copy of each sales invoice related to a licensed organization and record of voided gaming stamps with the attorney general by the fifth business day following the month of the transaction.
11. A distributor may not buy or be provided gaming equipment from an affiliated company unless the company is a wholly owned subsidiary of the distributor. An affiliated company must have originally bought the equipment directly from a licensed manufacturer.
12. A distributor may not buy or be provided gaming equipment from an out-of-state distributor unless the out-of-state distributor has the manufacturer ship the equipment directly to the licensed distributor and the manufacturer is licensed.
13. A distributor may not knowingly possess, display, sell, or provide an organization a deal of pull tabs or bingo cards, club special, tip board, prize board, or punchboard that:
 - a. Does not conform to the quality standards of section 99-01.3-16-04, 99-01.3-16-05, or 99-01.3-16-06;

- b. Has a manufacturer's or distributor's seal broken on the manufacturer's container or has been prohibited by the attorney general from sale or play within North Dakota; or
 - c. Contains pull tabs or punches that have winner protection features although they are not winning pull tabs or punches.
- 14. A distributor may not temporarily store any game that has a state gaming stamp affixed to its flare which has been sold. A sale occurs when a distributor issues a sales invoice. If a distributor sells or provides gaming equipment to another distributor, the distributor shall ship the equipment directly to the other distributor's address.
- 15. A distributor shall direct a manufacturer to ship gaming equipment directly to the distributor and the distributor shall have it unloaded at its warehouse. However, if a distributor buys equipment from a manufacturer for sale to another distributor or buys a flashboard, blower, jar bar, paddlewheel, or twenty-one, poker, or paddlewheel table for sale to an organization, the distributor may direct the manufacturer to ship the equipment directly to the other distributor or organization, including the organization's site.
- 16. A distributor may not separate a paper bingo card when there are two or more faces on a sheet.
- 17. A distributor may not:
 - a. Sell or provide a dispensing device or bingo card marking device to an organization unless a model of the device has first been approved by the attorney general;
 - b. Modify an approved dispensing device model or electronic currency validator unless authorized by the attorney general; or
 - c. Rent a dispensing device to an organization unless the rent is for a fixed dollar rate per month or other duration. For a bingo card marking device, a distributor may rent a bingo card marking device to an organization for a fixed dollar rate per month or other duration, or for a percentage or fixed dollar amount of rental income derived from a player who uses the device. Rent may not be based on gross proceeds of bingo. If a distributor rents a bingo card marking device to an organization, the distributor may have a manufacturer, on behalf of the distributor, issue an invoice to an organization; however, the organization shall remit all rent payments directly to the distributor.
- 18. A distributor may arrange for an organization to acquire a dispensing device through a financing lease purchase agreement with a finance or lease company. Although an organization is deemed to own a device,

a finance or lease company may have a security interest or ownership right in the device until the organization satisfies the lease.

19. If a distributor is an agent for another distributor in marketing a dispensing device, the agent is not required to complete a sales invoice. A distributor is an agent if it receives a commission and does not finance or take temporary possession or title to the device.
20. A distributor that sells or provides a new or used dispensing device to an organization or distributor, other than as an agent, or merely transacts a transfer of a device, for or without a fee, between two organizations, shall do the following unless that distributor contracts with another distributor to comply with this rule on its behalf:
 - a. Maintain an adequate inventory of electronic and mechanical parts in North Dakota, provide maintenance service, and provide technical assistance and training in the service and repair of a device;
 - b. Make available, upon request, electrical and mechanical parts to all other licensed distributors at the usual price for such parts; and
 - c. Notify the attorney general of any recurring electronic or mechanical malfunction of a device model.
21. A distributor that resells, transacts a transfer, rents, or provides a used dispensing device to an organization shall change or arrange to have changed all the keyed locks on the device.
22. A distributor that sells or provides a dispensing device to an organization shall record this information on a sales invoice:
 - a. Name, address, and license number of an organization and name and location, if known, of the site where the device will be placed; and
 - b. Name of device and its serial number.
23. A distributor shall initially set up a dispensing device at a site and conduct and document one training session on the operation and service of the device for an employee of an organization that buys acquires a device for the first time.
24. A service technician may not access a dispensing device unless accompanied by an organization employee.
25. A distributor may not possess, in inventory, a processing chip encoded with proprietary software that was duplicated by the distributor for a dispensing device usable in North Dakota.

26. A distributor may not sell or provide new video surveillance equipment or install video surveillance equipment for an organization unless the distributor is a regular vendor of this equipment ~~and~~ or is approved by the attorney general.
27. If a distributor receives an administrative or criminal complaint or a citation from another state, it shall notify the attorney general in writing within thirty days of the date of the complaint or citation.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-14

99-01.3-15-06. Distribution of gaming equipment.

1. A manufacturer's game serial number must be on a paddlewheel ticket described by subsection 1 of section 99-01.3-11-01, pull tabs, prize board, club special, seal board, tip board, sports-pool board, bingo cards used in a dispensing device, and calcutta board. No game serial number may be special ordered. A game serial number must be preprinted on a paddlewheel ticket card. If a game serial number is not preprinted on a seal board, prize board, sports-pool board, or calcutta board, a distributor shall assign and electronically or mechanically imprint it on the board. No serial number may be repeated within three years.
2. For a deal of pull tabs (~~two-ply card with break-open tabs~~), deal of bingo cards used in a dispensing device, and ~~a specialty jar ticket game~~, a distributor may open a manufacturer's cellophane shrink wrap to access a flare. A distributor shall affix a state gaming stamp on the front of the original flare of a deal of pull tabs and bingo cards, club special, tip board, series of paddlewheel ticket cards, and on a punchboard, sports-pool board, seal board, prize board, and calcutta board that is sold or provided to a customer. If a case of bingo cards that is used in a dispensing device consists of two or more containers, each container is a separate deal, regardless of whether the game serial number is the same. A gaming stamp must be affixed in North Dakota. A distributor shall legibly write a manufacturer's game serial number in ink on the stamp. If the written number is incorrect, the number cannot be changed or erased and the stamp must be voided. For a series of paddlewheel ticket cards, the game serial number written must be the lowest numbered paddlewheel ticket card. Then, a distributor shall replace, if applicable, a flare inside the cellophane shrink wrap and seal the opening. This rule does not apply to gaming equipment provided directly to an organization that has a permit, Indian tribe, United States military, out-of-state purchaser, or another licensed distributor.

3. If a manufacturer's security seal on a container is inadvertently broken but the integrity of a deal remains intact, a distributor may reseal the deal with ~~a distributor permanent~~ an adhesive security seal identifying the distributor. The seal must be applied to all accessible sides of a container and ensure that ~~a deal's pull tabs or bingo cards are not accessible from outside the container~~ deal is secure. A distributor shall indicate on a sales invoice that the deal was resealed by the distributor and the reason.
4. A distributor shall provide a flare with a deal of pull tabs or jar tickets and series of paddlewheel ticket cards. The master flare for a game involving deals of jar tickets that contain winning tickets of the same prize value printed in differently colored numbers or symbols must have the flare's numbers and symbols printed in matching colors. A flare, including a master flare, must indicate the name of the game, manufacturer's form number (excluding a flare for a deal of jar tickets), cost per play, and value and number of winning prizes. The front of a flare for a deal of jar tickets must indicate the number of jar tickets in the deal. The number of prizes may be designated by a number or by a quantity of symbols that represent the number of winning prizes and winning number or symbol. A symbol must be pictured on a flare, not described. A last sale prize must be printed on a flare or be indicated by a permanently affixed sticker. The flare or sticker must contain the last sale feature, prize value, and distributor's name or license number. ~~Except to add a last sale feature to a manufacturer's flare for a deal of pull tabs (two-ply or three-ply card), a~~ A distributor may not alter a flare except to add a last sale feature to a manufacturer's flare for a deal of pull tabs. A distributor may make a flare for a deal of jar tickets. This information must be mechanically or electronically printed on a flare.
5. A distributor shall provide an organization with an adequate supply of bingo prize flares for use with a bingo card dispensing device.
6. A distributor may not sell or provide a ~~ten or twelve~~ multiple line or ~~twenty-five or one hundred~~ multiple square sports-pool board to a customer unless a special opaque tape covers the numbers on the board. If a tape is disturbed, any recovering of the numbers must be detectable. A tape must prevent the concealed numbers from being viewed from the outside when using a high-intensity lamp ~~of up to five hundred watts~~.
7. For a deal of jar tickets, club special, tip board, and prize board, a distributor shall provide a game information sheet containing cost per play, ideal gross proceeds, ideal prizes, including any last sale prize, if known, and ideal adjusted gross proceeds or, in place of a separate sheet, the information may be printed on the front or back of the deal's flare.
8. A distributor shall print these phrases on a sports-pool board:

- a. Professional sports pool;
 - b. Cost per play \$_____;
 - c. Date of sports event _____;
 - d. Ideal prizes \$_____; and
 - e. Method of prize payout _____.
9. A distributor shall indicate this information on the flare of a series of paddlewheel ticket cards:
- a. Game serial numbers of the lowest and highest numbered paddlewheel ticket cards;
 - b. Quantity of cards; and
 - c. Type of paddlewheel ticket (for example, 40 x 3 x 120), if applicable.
10. A distributor shall print the phrases "merchandise prize _____" and "retail price \$_____" on a flare and for each seal for a game that has a merchandise prize.
11. A distributor shall sell a calcutta board that is cardboard or similar material on which is printed a matrix of horizontal lines and vertical columns sufficient to accommodate the information required by subsections 7, 10, and 12 of section 99-01.3-10-01. A distributor shall print "calcutta" at the top of a board and print the phrases "sporting event _____", "method of prize payout _____", and "date of sports event _____" on the board.
12. A distributor shall print the phrases "cost per play \$_____" "merchandise prize _____" (if applicable), and "retail price \$_____" on a seal board.
13. A distributor shall print "cost per play \$_____" or similar phrase, "retail price \$_____" and "merchandise prize _____" (if applicable) on a prize board.
14. If a distributor is notified by an organization that the game serial number of a deal of pull tabs or bingo cards, club special, tip board, seal board, punchboard, series of paddlewheel ticket cards, calcutta board, prize board, or sports-pool board is different from the number written on a

state gaming stamp, the distributor shall follow procedures prescribed by the attorney general.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-14

CHAPTER 99-01.3-16

99-01.3-16-02. Background investigation and notification of complaint in another state.

1. ~~A manufacturer, including its employees, may not sell or otherwise provide gaming equipment to a distributor unless the manufacturer has undergone a background investigation and been approved by the attorney general. This includes~~ The attorney general may conduct a background investigation of a manufacturer and request information on each partner of a partnership, and each stockholder owning ten percent or more of the outstanding voting common stock of a corporation, including the corporation's parent or subsidiary corporation, if any.
2. A manufacturer shall provide all documentation, assurances, consents, waivers, or other information requested by the attorney general.
3. If a ~~distributor or manufacturer received~~ receives an administrative or criminal complaint or a citation from another state, it shall notify the attorney general in writing within thirty days of the date of the complaint or citation. ~~If the complaint or citation is sustained, the attorney general may suspend or revoke a distributor's or manufacturer's license.~~

History: Effective May 1, 1998; amended effective October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-16-04. Quality standards for pull tabs. A manufacturer shall manufacture pull tabs according to these standards:

1. Construction.
 - a. A deal must be designed, constructed, glued, and assembled to prevent the determination of a winning pull tab or numbers or symbols without first removing the tabs or other covering.
 - b. All the pull tabs of a deal must have the same game serial number which cannot be repeated on the same form number for three years.
 - c. When a tab or other covering is removed, the numbers or symbols must be fully visible in the window ~~and must be placed so that no part of a symbol or number remains covered.~~ The numbers or symbols can be displaced to the left or right in a window for increased security.
 - d. The window slits on a pull tab must be perforated on three sides. A pull tab must be glued on all four edges and between each window.

The glue must be of sufficient strength and type to prevent the any separation or delamination of a pull tab.

2. Opacity. Concealed numbers, symbols, or winner protection features cannot be viewed or determined from the outside of a pull tab using a high-intensity lamp ~~of five hundred watts.~~
3. Color. It must not be possible to detect or pick out winning from losing pull tabs through a variation in printing graphics or colors, ~~especially those involving different printing plates.~~
4. Printed information. The minimum information printed on a pull tab must be as follows, except that subdivisions b, c, and d are not required for a folded or banded jar ticket or to a two-ply or three-ply card with only one perforated break-open tab which measures one and one-quarter inches [31.7 millimeters] by two and one-quarter inches [57.1 millimeters] or less in size, subdivisions a, c, d, and e are not required for pull tabs used with a tip board, and subdivisions b, c, and e are not required for a pull tab used with a prize board:
 - a. Name of manufacturer or its logo;
 - b. Name of game;
 - c. Cost per pull tab;
 - d. Manufacturer's form number;
 - e. Number of winning pull tabs and winning numbers or symbols, and prize amounts, or a flare must be included with the game providing that information; and
 - f. Unique minimum five-character game serial number, printed on the game information side of the pull tab.
5. Winner protection. A unique symbol or printed security device, such as a specific number keyed to a particular winning pull tab, or the name of the symbol or some of the symbol colors changed for a winning pull tab, or other similar protection must be placed in the winning windows of winning pull tabs. Also, a winning pull tab that has a prize greater than twenty dollars must have a secondary form of winner verification.
6. Randomization. The winning pull tabs must be intermixed among all other pull tabs in a deal to eliminate any pattern between deals, or portions of deals, from which the location or approximate location of any winning pull tab may be determined. A deal must be assembled so that no placement of winning or losing pull tabs exists that allows prize manipulation or pick out. Banded jar tickets packaged in a bag must be randomized.

7. Guillotine cutting. It must not be possible to isolate winning or potential winning pull tabs of a deal by variations in size or the appearance of a cut edge of the pull tabs.
8. Packaging.
 - a. A deal's ~~container~~ deal must be ~~sealed with~~ contain a seal that warns warning the purchaser (end-user) that the deal may have been tampered with if the container was received with the seal broken. A seal must ensure that a deal's pull tabs are not accessible from outside the container when sealed. A manufacturer shall seal or tape every entry point into the container. The seal or tape must be tamper-resistant and be designed so that should a container be opened or tampered with, it would be easily noticed. For jar tickets packaged in a bag, the glue used to seal the flap of the bag must be permanent adhesive glue. The required seal cannot be a manufacturer's cellophane shrink wrap.
 - b. A manufacturer shall print, in bold letters, "Pull tabs must be removed from this packaging container and thoroughly mixed before sale to the public" or similar language on the outside of a container.
 - c. A deal's game serial number must be legibly placed on or be able to be viewed from the outside of the deal's container.
 - d. For a deal shipped to North Dakota, a flare for a ~~deal of pull tabs (two-ply or three-ply card) or a specialty tab~~ or jar ticket deal must be located on the outside of the deal's sealed container so that the manufacturer's security seal will not be broken to access the flare.
9. Number of top tier winners. ~~Except for a deal for a prize board, a~~ A deal must have at least two top tier winning pull tabs, except for a deal for a prize board and a last sale prize feature.
10. A manufacturer may not ~~exactly~~ duplicate (print) a winning number, symbol, or set of symbols of any nonpromotional jar ticket or pull tab on any promotional jar ticket or pull tab.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-06. Quality standards for bingo cards used in a dispensing device. A manufacturer shall manufacture deals of bingo cards used in a dispensing device according to these standards:

1. **Construction.**

- a. A case must consist of at least three thousand bingo cards with different faces and series numbers.
 - b. Deals of bingo cards that have a different cost per play must be differentiated.
 - c. A deal must be designed, constructed, glued, and assembled to prevent the determination of the card numbers without first removing the tab.
 - d. All the cards of a deal must have the same game serial number. A serial number of a case of two or more deals cannot be repeated on the same form number for three years.
 - e. A bingo card must be a two-ply card with one perforated break-open tab. The single tab slits on a card must be perforated on three sides. A card must be glued on all four edges. The glue must be of sufficient strength and type to prevent the separation or delamination of a card.
 - f. When a tab is removed, the bingo numbers must be fully visible in the window and ~~must be placed so that no part of a number remains covered~~. The numbers can be displaced to the left or right in a window for increased security.
2. **Opacity.** Concealed numbers cannot be viewed or determined from the outside of a bingo card using a high-intensity lamp ~~of five hundred watts~~.
3. **Randomization.** Cards of a deal must be thoroughly mixed to eliminate any pattern among the deal's cards and between deals or portions of deals, based on the cards' series numbers.
4. **Printed information.**
- a. The game information side must contain the:
 - (1) Name of game;
 - (2) Unique minimum five character manufacturer's game serial number;
 - (3) Manufacturer's form number and name of manufacturer or its distinctive logo;
 - (4) Cost per bingo card;
 - (5) Space for validation. See subsection 32 of section 99-01.3-16-08; and

(6) Lines for name and address of winning player and prize amount.

- b. The tab side must contain instructions for the player to open the tab, mark the numbers posted, compare the marked numbers to the posted winning patterns, and, if a winning card, redeem for a prize.
- c. Inside the tab there must be a preprinted bingo face with twenty-five squares arranged in five vertical columns and five horizontal rows. The letters B, I, N, G, and O must be printed above the five vertical columns. The middle square may be a free space. The bingo face must indicate the manufacturer's series number for that face and the manufacturer's game serial number for that deal.

5. Packaging.

- a. ~~A deal's container~~ deal must be ~~sealed with~~ contain a seal that ~~warns~~ warning the purchaser (~~end user~~) that the deal may have been tampered with if the container was received with the seal broken. A seal must ensure a deal's bingo cards are not accessible from outside the container when sealed. A manufacturer shall seal or tape every entry point into the container. The seal or tape must be tamper resistant and of such construction to guarantee that should a container be opened or tampered with, it would be easily noticed. The required seal cannot be a manufacturer's cellophane shrink wrap.
- b. A deal's game serial number must be legibly placed on or be able to be viewed from the outside of the deal's container.
- c. The prize flare for a deal must be located on the outside of the deal's sealed container so that the manufacturer's security seal will not be broken to access the prize flare.

6. Prize flare. A prize flare must accompany each deal and contain:

- a. Separate lines for name of organization, name of site, control number, and device number;
- b. Cost per bingo card;
- c. Lines for time and date when the prize flare is placed in play and removed from play. The lines must be designated by the hour, minute, and a.m. or p.m.;

- d. Lines for two initials for when the prize flare is placed in play and for one employee's initials for when the prize flare is removed from play;
- e. Three lines for listing a winning pattern or patterns, as ways to win;
- f. Three lines for listing a prize amount, corresponding to a winning pattern or patterns;
- g. Examples of various patterns that may be selected for a winning pattern. Each example must specify the name of the pattern and whether it is an "any way" pattern;
- h. At least two blank bingo cards with twenty-five squares arranged in five vertical columns and five horizontal rows. The letters B, I, N, G, and O must be printed above the five vertical columns. The blank cards may be completed by an organization for illustrating a winning pattern or patterns that are not shown as an example; and
- i. The phrase "except for an 'any way' pattern, a winning pattern is based on a bingo card being in an upright position".

History: Effective May 1, 1998; amended effective October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-08. Manufacturing specifications - Dispensing device. A pull tab and a bingo card dispensing device must meet these specifications:

1. If a device is designed to accommodate two or more different games of pull tabs, each compartment must independently meet the specifications of this section;
2. Electrical and mechanical components and design principles may not subject a person to any physical hazard or cause electrical interference. The power cord must be ten feet [3.05 meters] in length and have a three-prong ground ~~at the male end~~. A surge protector or in-line power filter must be installed in-line on the main powerline to a device. A device must safely and operatively withstand a static test of twenty thousand volts of electricity and maintain proper voltage during a low electrical current (brownout);
3. A bingo card device must have an on and off keyed switch ~~located in front of the device~~ to control the electrical current or electronic currency validator;
4. A pull tab device must have at least four columns for stacking pull tabs and have capacity for two thousand four hundred pull tabs. A bingo card device must have at least two columns for stacking bingo cards

and have capacity for two thousand two hundred cards. A stacking column for bingo daubers is optional;

5. A stacking column must be adjustable for varying lengths of pull tabs. However, as an option, a device may use replaceable stacking columns that accommodate varying lengths of pull tabs. The device must accommodate a minimum pull tab size of one and seven-eighths inches [47.6 millimeters] in width by two and five-eighths inches [64.77 millimeters] in length, a maximum pull tab size of one and seven-eighths inches [47.6 millimeters] in width by four and one-fourth inches [107.95 millimeters] in length, or both sizes;
6. A device must be adjustable for varying thicknesses of pull tabs or bingo cards;
7. Glass must be placed in the front of the columns ~~and be sufficiently clear to enable device enabling~~ an employee to see whether a device is low on pull tabs or bingo cards;
8. A device must have a dispensing outlet or tray to catch a dispensed pull tab or bingo card;
9. A device must have one currency validator. A coin ~~validator~~ acceptor is not allowed;
10. A pull tab device must accommodate pricing of twenty-five cents, fifty cents, one dollar, and two dollars per pull tab and dispense the correct number of pull tabs based on the amount of credit played. The standard price per pull tab must apply to all columns;
11. A bingo card device must accommodate pricing of twenty-five cents, fifty cents, one dollar, two dollars, and five dollars. The price at which each column is set may differ for dispensing differently priced cards and daubers. A device must dispense the correct number of bingo cards and daubers based on the amount of credit played;
12. An exterior door must have at least one keyed lock. The key must be different from all other keys used on other devices manufactured by the manufacturer;
13. A pull tab device may have an optional "all" player button that activates the device to dispense pull tabs ~~at one time~~, equal to the value of the unplayed credits and randomly ~~from the columns~~ selected by a random number generator or player button sequencing concept;
14. A bingo card device may have an optional "all" player button that activates the device to dispense ~~up to twenty-five~~ bingo cards ~~at one time~~ equal to the value of the unplayed credits from the column

- selected by a player. However, an "all" player button cannot apply to a bingo dauber column;
15. A device must have an interior mode switch, interior dipswitch, or an exterior mode switch activated by a key which enables a person to:
 - a. Set the price per pull tab, bingo card, or dauber; and
 - b. Unless a device prints reports prescribed by subsection 18, access the accounting information required by subsection 16 and, if the device has nonresettable electronic accounting meters, subsection 17;
 16. Unless a device prints reports prescribed by subsection 18, there must be at least two independent resettable electronic or mechanical accounting meters. The meters must maintain accounting information of at least four digits in length and be capable of maintaining the accounting information for six months after electrical power to a device is disconnected or the electrical current used to operate a device is switched off. The meters must record the:
 - a. Total value of currency validated; and
 - b. Total number of pull tabs or bingo cards dispensed;
 17. Unless a ~~pull tab or bingo card~~ device prints reports prescribed by subsection 18, there must be at least two independent nonresettable electronic or mechanical accounting meters. The meters must maintain accounting information of at least six digits in length and be capable of maintaining the accounting information for six months after electrical power to a device is disconnected or the electrical current used to operate a device is switched off. The meters must record the:
 - a. Cumulative value of currency validated; and
 - b. Cumulative number of pull tabs or bingo cards dispensed;
 18. Unless a device has resettable and nonresettable accounting meters prescribed by subsections 16 and 17, the device must print a cash pickup and a lifetime activity report.
 - a. A cash pickup and a lifetime activity report must:
 - (1) Be printed and accessible only from the interior of a device;
 - (2) State the time and date of the present report and of the preceding report. The time must be expressed in numeric hours and minutes. The hour must be expressed as a.m. or p.m.;

- (3) State the unique device number; and
 - (4) State a sequential report number, which must be at least three digits in length, starting with number one.
- b. A cash pickup report, based on resettable electronic accounting meters, must include this information for activity since the preceding report:
- (1) For a pull tab device, number and value of pull tabs dispensed from all columns;
 - (2) For a bingo card device, number and value of bingo cards and daubers dispensed from each column and from all columns; and
 - (3) Value of currency validated.
- c. A lifetime activity report, based on nonresettable electronic accounting meters, must include this information for activity since a device was manufactured:
- (1) For a pull tab device, cumulative number and value of pull tabs dispensed from all columns;
 - (2) For a bingo card device, number and value of bingo cards and daubers dispensed from each column and from all columns; and
 - (3) Cumulative value of currency validated;
19. To ensure a commingling of pull tabs, a random number generator or player button sequencing concept must be used to select a particular column from which a pull tab will be dispensed. A selection process is random if it does not produce a significant statistic of recurring patterns. A player button sequencing concept must field each button at least one hundred times a second;
20. Instructions for player operation must be permanently affixed or placed under glass or other transparent material on the front of a device;
21. A pull tab device must have one or more player buttons located on the front ~~of it which~~ to activate the dispensing of a pull tab. However, excluding an "all" player button, the number of player buttons may not exceed the number of columns. Regardless of which player button is pressed, the selection of a particular column from which a pull tab is dispensed must be done by a random number generator or player button sequencing concept;

22. A bingo card device must have a separate button located on the front of it for each column of bingo cards and for the bingo dauber column which activates the dispensing of a card or dauber from that column;
23. A device must have an LED or LCD display screen of at least four digits in length. However, if a device uses two independent nonresettable electronic accounting meters, the device must have an LED or LCD display screen of at least six digits in length. The digits must be one-half of one inch [12.70 millimeters] in height. The value of currency validated must be displayed on the LED or LCD screen as a monetary credit which is ~~drawn down~~ reduced as a device vends a pull tab, bingo card, or dauber. Unless a device prints reports prescribed by subsection 18, the LED or LCD display screen must also display the accounting information required by subsection 16 and pricing information required by subdivision a of subsection 15;
24. A device must record every vend, including a test vend, of a pull tab, bingo card, and dauber and every currency validation, ~~including a test vend of a pull tab, bingo card, or dauber and a test validation of currency~~, on the accounting meters required by subsections 16 and 17 or subsection 18;
25. If a device malfunction occurs or electrical power is interrupted, the value of credits previously displayed on an LED or LCD display screen must be correctly redisplayed immediately after the malfunction is cleared or electrical power is restored. However, this rule does not apply if a device is totally inoperable;
26. In a pull tab device a column of pull tabs must automatically discontinue operation, triggered by a micro, optical, or software controlled switch, when the column has fewer than fifty pull tabs remaining. However, this rule does not apply when an organization is closing a game at which time a micro, optical, or software controlled switch may be circumvented;
27. A device must automatically stop operating when there is only one column of pull tabs ~~remaining in order when the other columns of pull tabs are out of order due to a low level of pull tabs remaining in one or more stacking columns or due to jams~~ functioning. However, if this occurs and there are unplayed credits on the device, the device may dispense pull tabs equal to the value of the unplayed credits from the remaining column before the device automatically stops operating. A device must automatically stop operating when all the columns of bingo cards are out of order;
28. An identification plate must be affixed ~~at the top of~~ to an exterior side panel and contain the device's:
 - a. Manufacturer;

- b. Serial and model numbers; and
 - c. Date of manufacture which may be part of the model number;
29. No device may have an auxiliary remote control unit for posting credits;
30. A device must automatically stop operating when a nonresettable meter is disconnected;
31. A device must have a maintenance and operations manual;
32. A bingo card device must validate a dispensed bingo card by printing this information in a prescribed area on the card. The validation must be clearly printed in permanent ~~purple or black~~ ink and be electronically printed at least three-sixteenths of one inch [4.76 millimeters] in height:
- a. Unique machine number or validation control code of at least four characters in length;
 - b. Month and day. The month may be expressed alphabetically and may be abbreviated to three characters or it may be expressed in numeric digits. The day must be expressed in numeric digits; and
 - c. Time expressed in numeric hours and minutes. The hour must be designated as a.m. or p.m. Military time is not allowed;
33. A bingo card device's internal clock must be programmed to automatically adjust the time to change to and from daylight saving time. A device must maintain the proper time for six months after electrical power to the device is turned off; and
34. A bingo card device must have an electronic LED flashboard for posting bingo numbers which, when lit, must be readable from a distance of ten feet [3.05 meters].

History: Effective May 1, 1998; amended effective July 1, 2002; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-09.1. Manufacturing specifications - Bingo card marking devices. A site system, and bingo card marking device which displays a facsimile of a bingo card and allows a player to electronically mark the card, must meet these specifications:

- 1. A site system is computer hardware and software used at a site by an organization which generates and downloads electronic bingo card images to devices, accounts for gross proceeds, and provides accounting information on all activity for three years from the end of the quarter in which the activity occurred. It must:

- a. Record a nonresettable electronic consecutive six-digit receipt number for each transaction;
 - b. Issue a receipt for each transaction containing:
 - (1) Name of a site or organization;
 - (2) Date and time of the transaction;
 - (3) Number of electronic bingo card images downloaded;
 - (4) Selling price of a card or package, rental fee, gross proceeds, and receipt number; and
 - (5) Serial number of device issued to a player;
 - c. Print a summary report for each session containing the date and time of the report, name of site, date of the session, sequential session number, number of transactions, number of voided transactions, number of electronic bingo card images downloaded, number of devices used, total gross proceeds, and, for each transaction, list:
 - (1) Sequential transaction number starting with one, for each device;
 - (2) Device serial number;
 - (3) Type of transaction (sale or void);
 - (4) Time of transaction;
 - (5) Number of electronic bingo card images downloaded;
 - (6) Selling price of a card or package; and
 - (7) Receipt number;
 - d. Must be remote-accessible by the manufacturer of the device and attorney general for monitoring the system operation and accounting information in real time; and
 - e. Must be capable of printing an electronic card image of any downloaded card;
2. A device must be a portable hand-held unit and cannot be wired directly to a site system;

3. A device must be programmed for use at only the site where the site system is located;
4. A device must have a unique serial number permanently encoded in the software;
5. No device can allow more than seventy-two single-faced cards ~~to be played~~ per game;
6. A device ~~must~~ may require a player to manually enter each bingo number by using an input function key or may use a radio frequency to automatically daub the bingo numbers called;
7. A device can display a player's best card or a winning card and alert ~~only that the~~ player through an audio or video method, or both, that the player has a winning card;
8. A device must automatically erase all stored cards at the end of the last game of a session or when the device is turned off; and
9. A device must be downloaded with new cards at the time of the sales transaction.

History: Effective July 1, 2000; amended effective July 1, 2002; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-09.3. Manufacturing specifications - Card shuffling devices.

A card shuffling device must:

1. Provide a completely random shuffle of the cards; and
2. Have been tested by an independent testing laboratory indicating that a prototype was tested with satisfactory random shuffling results.

History: Effective October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-11. Sales invoice. A manufacturer may not sell or provide to or accept from a distributor deals of pull tabs or bingo cards, ~~punchboards~~, paper bingo cards, or bingo card marking devices, or pull tab dispensing devices without recording the transaction on a sales or credit invoice. The invoice must include:

1. License number, business name, and address of the distributor;
2. Business name and address to which the gaming equipment is shipped;
3. Invoice number and date;

4. Date shipped;
5. Indication for a credit invoice;
6. Quantity of deals of pull tabs and bingo cards and ~~punchboards~~ paper bingo cards;
7. Description of each deal of pull tabs and bingo cards and ~~punchboards~~ paper bingo cards sold, including the name of the game and game serial number which may be listed on an addendum to a sales invoice. For a deal of pull tabs and bingo cards involving two-ply or three-ply cards with perforated break-open tabs, the description must include the manufacturer's form number;
8. For paper bingo cards, quantity, primary color, type of collated booklet, serial number, size of series, and number of faces on a card; and
9. Name, model, and serial number of a bingo card marking device or pull tab dispensing device.

History: Effective May 1, 1998; amended effective July 1, 2000; October 1, 2006.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1