

NORTH DAKOTA ADMINISTRATIVE CODE

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

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[Repealed effective October 1, 2017]

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[Repealed effective October 1, 2017]

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[Repealed effective October 1, 2017]

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[Repealed effective October 1, 2017]

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30-02-10-01. Procedures and conditions.

Before printing or distributing any raffle tickets, any organization that receives any license in accordance with North Dakota Century Code chapter 20.1-05.1-02, shall submit to the director an application on forms provided by the department. This application form must be received by the department by January first of the year that the license is intended to be used. Any raffle must be organized and conducted in accordance with North Dakota Century Code chapter 53-06.1 and North Dakota Administrative Code article 99-01.3.

History: Effective October 1, 2017.

General Authority: NDCC 20.1-05.1-02

Law Implemented: NDCC 20.1-05.1-02

30-02-10-02. Procedures and conditions, spring wild turkey licenses - Nonprofit organizations; special allocation hunting license authorization.

1. In addition to the allocation provided by subsection 2 of North Dakota Century Code section 20.1-05.1-01, the director shall issue two additional spring wild turkey licenses and permits to hunt wild turkeys to individuals residing in North Dakota who are selected by the national wild turkey federation. All requirements contained within subsection 2 of North Dakota Century Code section 20.1-05.1-01 and North Dakota Administrative Code section 30-02-10-01 apply to this additional allocation of two spring wild turkey licenses.
2. In addition to the allocation provided by subsection 3 of North Dakota Century Code section 20.1-05.1-01, the director shall issue two additional spring wild turkey licenses and permits to hunt wild turkeys to individuals residing in North Dakota who are selected by the outdoor adventure foundation. All requirements contained within subsection 3 of North Dakota Century Code section 20.1-05.1-01 and North Dakota Administrative Code section 30-02-10-01 apply to this additional allocation of two spring wild turkey licenses.

History: Effective October 1, 2017.

General Authority: NDCC 20.1-05.1-01

Law Implemented: NDCC 20.1-05.1-01, 20.1-04-07.1

30-02-10-03. Accounting statement.

Any organization that receives a license in accordance with North Dakota Century Code sections 20.1-04-07.1, 20.1-05.1-01, and 20.1-05.1-02 shall provide the director a detailed accounting statement within thirty days after the completion of the raffle drawing or auction completed on a standardized form provided by the department. At a minimum, this statement must include information regarding raffle or auction expenses, gross and net raffle or auction income, number of raffle tickets sold and unsold, as well as documented proof that no more than ten percent of the gross raffle or auction proceeds were used to promote the raffle or auction.

History: Effective October 1, 2017.

General Authority: NDCC 20.1-04-07.1, 20.1-05.1-01, 20.1-05.1-02

Law Implemented: NDCC 20.1-04-07.1, 20.1-05.1-01, 20.1-05.1-02

30-02-10-04. Performance report.

Any organization that receives any license in accordance with North Dakota Century Code sections 20.1-04-07.1, 20.1-05.1-01, and 20.1-05.1-02 shall provide the director by the end of each calendar year an annual performance report that identifies all projects funded with raffle or auction proceeds and which states the balance of unspent funds.

History: Effective October 1, 2017.

General Authority: NDCC 20.1-04-07.1, 20.1-05.1-01, 20.1-05.1-02

Law Implemented: NDCC 20.1-04-07.1, 20.1-05.1-01, 20.1-05.1-02

CHAPTER 30-03-03

30-03-03-03. Construction.

Any structure used as a fish house or dark house, to include campers, that is required to have the owner's name and address or telephone number or a registration number issued by the department for the fish house inscribed on it, shall be constructed of material that will allow it to float and be readily removable from the ice at any time.

History: Amended effective September 1, 1993; April 1, 2006; April 1, 2009; January 1, 2014; October 1, 2017.

General Authority: NDCC 20.1-06-07

Law Implemented: NDCC 20.1-06-07

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30-04-02-05. Firearms.

Use of firearms on wildlife management areas is allowed, except in a reckless and indiscriminate manner, and as otherwise posted at public road entry points. A person discharging a firearm on a department-designated target range shall not be considered to be engaging in indiscriminate shooting if conducted in accordance to the below rules specified for wildlife management area rifle/handgun shooting ranges and wildlife management area shotgun shooting ranges. The use of tracer rounds or exploding targets, or both, is prohibited on all wildlife management areas. ~~Any person who violates this section is guilty of a noncriminal offense and shall pay a one hundred dollar fee.~~

Wildlife management area rifle/handgun range rules:

1. Range hours are from sunrise to sunset.
2. Shooting permitted only from established benches to designated target stands.
3. No firearms may be handled when the range has been declared "clear" and people are down range. When any person is down range, all firearms must have the muzzle pointed down range, action open, ejection port or cylinder up, and magazine removed.
4. Exploding targets are prohibited. Only paper or cardboard targets are permitted.
5. Tracer, armor piercing, and steel core ammunition is prohibited.
6. Persons destroying target posts or other property are liable for replacement or costs associated with replacement.

7. Only handheld or shoulder-fired firearms are permitted.

8. Fully automatic firearms are prohibited.

9. Centerfire rifles .50 caliber or larger are prohibited.

Wildlife management area shotgun range rules:

1. Range hours are from sunrise to sunset.

2. Only use of shotguns is permitted on a shotgun range. Handgun and rifle use is prohibited on a shotgun range.

3. Use of buckshot or slugs is prohibited.

4. Only commercially manufactured clay targets may be used.

5. All spent shells and other materials must be placed in the trash receptacles or taken away from the range by the range user.

History: Amended effective April 1, 1986; April 1, 2006; January 1, 2014; October 1, 2017.

General Authority: NDCC 20.1-11-05

Law Implemented: NDCC 20.1-11-05

30-04-02-14.1. ~~Tree stands and~~ ground blinds, game cameras, and traps.

No person may construct or use a permanent tree stand or permanent steps to a tree stand or permanent ground blind on any wildlife management area. Portable tree stands and portable steps, screw-in steps, natural tree stands, ~~and~~ portable ground blinds, and game cameras may be used. Portable tree stands and portable steps are defined as those that are held to the tree with ropes, straps, cables, chains, or bars. Screw-in steps are those that are screwed into the tree by hand without the aid of any tools. Ladder-type stands that lean against the tree are portable stands. A notched board placed in a tree crotch is a portable stand. Natural stands are those crotches, trunks, down trees, etc., where no platform is used. The owner's name, city, and telephone number, the owner's North Dakota hunter education number, or a unique identification number issued by the department must be on the tree stand ~~or~~ portable ground blind, ~~or both~~ game cameras, and traps, and be readable from the ground. Tree stands and ground blinds do not preempt hunting rights of others in the vicinity of the tree stand ~~or~~ ground blind, or game camera. Tree stands, steps, ~~and~~ ground blinds, and game cameras may not be put up before August twentieth of the year, and they shall be taken down by January thirty-first of the following year. Stands, steps, ~~and~~ ground blinds, and game cameras not removed by the thirty-first of January are considered abandoned property and are subject to removal and confiscation by the director or the director's designee. Any person who violates this section is guilty of a noncriminal offense and shall pay a one hundred dollar fee.

History: Effective April 1, 1986; amended effective April 1, 2006; April 1, 2009; January 1, 2014; October 1, 2017.

General Authority: NDCC 20.1-11-05

Law Implemented: NDCC 20.1-11-05

30-04-02-22. Drones prohibited.

1. A person may not operate a drone or any radio-controlled aircraft while on any state wildlife management area unless authorized by the director or the director's designee.

2. The term drone refers to an unmanned aerial vehicle that can fly autonomously or by remote control.

History: Effective October 1, 2017.

General Authority: NDCC 20.1-11-05
Law Implemented: NDCC 20.1-11-05

**ARTICLE 30-05
BOAT SAFETY**

Chapter	
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30-05-02	Watercraft for Hire [Repealed]
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**CHAPTER 30-05-02
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[\[Repealed effective October 1, 2017\]](#)

Section	
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TITLE 61
STATE BOARD OF PHARMACY

OCTOBER 2017

CHAPTER 61-04-13

61-04-13-01. Patient consultation requirements.

Each prescription dispensed by a pharmacy serving patients in the state and each out-of-state pharmacy providing prescriptions by mail to patients in the state must provide the following in regard to consultation:

1. Provide consultation by a pharmacist or intern on each new prescription dispensed.
2. Provide consultation by a pharmacist or intern on each refill prescription dispensed. Pursuant to section 61-02-07.1-05, screening a patient for consultation on a refilled prescription may be completed by a registered technician.
3. Counseling can be provided to the patient or their agent.
4. For a refilled prescription, when the patient or the patient's agent is not available at the time of dispensing, the pharmacy must supply written or electronic materials and a toll-free phone number for the patient or the patient's agent to contact the pharmacist.
5. For a new prescription being dispensed by mail to a patient, an attempt to reach the patient or the patient's agent must be made for a consultation on the prescription; however, if the patient or the patient's agent is not available at the time of dispensing, the pharmacy must supply written or electronic materials and a toll-free phone number for the patient or the patient's agent to contact the pharmacist.
6. This section does not apply to prescriptions for patients exempted in North Dakota Century Code section 43-15-31.2.
7. Failure to provide proper consultation under this section is considered unprofessional conduct by the pharmacy and pharmacist under subsection 9 of section 61-04-04-01 and is subject to disciplinary action.

History: Effective July 1, 2017.

General Authority: NDCC 28-32-02, 43-15-10(1)(12), 43-15-31.2, 43-15-34, 43-15-35

Law Implemented: NDCC 28-32-02, 43-15-10(1)(12), 43-15-31.2, 43-15-34, 43-15-35

TITLE 69
PUBLIC SERVICE COMMISSION

OCTOBER 2017

CHAPTER 69-02-04

69-02-04-01. Notice.

In those proceedings in which a hearing is to be held, the commission will assign a time and place for hearing. Notice of the hearing must be posted in the office of the commission, and must be served on the parties and other persons entitled to receive notice at least twenty days prior to the date set for the hearing except in cases of emergency or as otherwise provided by law.

In any proceeding, except rulemaking proceedings, involving the rights of persons who are members of the public generally, notice of hearing must be given by legal publication in the North Dakota daily newspaper of the affected area. Notice must be published at least twenty days prior to the date of the hearing.

An electric, gas, or telecommunications public utility shall provide individual customer notice as required below by billing insert, newsletter, or other appropriate method approved by the commission. The notice must indicate the place and date of the commencement of any hearing, informal hearing, or public input session that has been ordered by the commission, and that the public is invited to attend. Subject to the power of the commission to modify its contents and when applicable, the notice must include a summary sheet describing the absolute dollar and percentage impact of any proposed rate or price changes by the various classes of services offered by the utility and must include a list of the utility's business office locations where the proposed rate or price schedules and a comparison of present and proposed rates or prices can be examined by the public. The notice must also contain in bold type the following statement when applicable: The rate changes described in this notice have been requested by (specific utility).

For electric and gas utilities, individual customer notice is required for an application for approval of a rate increase, purchase or sale, merger, or acquisition filed by the utility, and applications by the utility for alternative regulation. For electric and gas utilities, the commission may require the utility to provide individual customer notice to potentially affected customers in other rate proceedings, complaint cases, advance determination of prudence cases, and fuel and purchased gas adjustment proceedings.

For telecommunications utilities, individual customer notice is required for an application for a certificate of public convenience and necessity resulting from the sale, merger, or acquisition of an incumbent telecommunications company. The commission may require a telecommunications utility to provide individual customer notice to potentially affected customers in complaint cases.

The individual customer notices required by this section are separate from and in addition to any other customer notices required by law or rule, unless the commission authorizes the utility to satisfy multiple notice requirements with one notice.

History: Amended effective October 1, 1980; September 1, 1982; September 1, 1992; January 1, 2001; [October 1, 2017](#).

General Authority: NDCC 28-32-02

Law Implemented: NDCC 28-32-05, 28-32-08, 49-01-07

69-02-04-02. Appearances.

Each interested party shall enter an appearance at the beginning of the hearing by giving the party's name and address and briefly stating the capacity in which the party appears. All appearances must be noted on the record. ~~The name and position of each member of the commission's staff participating in the hearing or investigation must be included in the record as an appearance.~~

History: Amended effective September 1, 1992; [October 1, 2017](#).

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-01-07

CHAPTER 69-02-07

69-02-07-02. Notice.

1. The commission will issue a notice that the rules are proposed and set for hearing which will include:
 - a. A short, specific explanation of the proposed rule;
 - b. A brief explanation of the purpose of the proposed rule;
 - c. A determination of whether the proposal impacts the regulated community in excess of fifty thousand dollars;
 - d. A location where the text of the proposed rule may be reviewed;
 - e. Notice to interested persons of the opportunity to submit written comments and to appear and testify at the hearing to offer oral testimony;
 - f. The address to which written comments may be sent;
 - g. The address and telephone number at which a copy of the proposed rules and regulation analysis may be requested; and
 - h. The date, time, and place of the hearing.
2. The commission will publish an abbreviated newspaper notice in each official county newspaper in the state.
3. The commission will file the notice of hearing and a copy of the proposed rules with the legislative council ~~at least thirty days before the hearing~~.
4. The public comment period on the proposed adoption, amendment, or repeal of any rule under this article will close ~~thirty~~ten days after conclusion of the public hearing, unless extended by the commission.
5. The commission will consider all written comments and oral testimony received before adoption, amendment, or repeal of any rule under this article and make a written record of its consideration.

History: Effective December 1, 1990; amended effective January 1, 2001; October 1, 2017.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 28-32-02, 49-01-07

CHAPTER 69-02-09
PROCEDURES FOR PROTECTING INFORMATION FROM DISCLOSURE

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69-02-09-01. Application to protect information.

Except as provided in section 69-02-09-13, ~~an applicant~~ a person requesting protection of information in an administrative proceeding or in a response to a commission request for information shall file an application with the commission. The application must include at least the following:

1. A general description of the nature of the information sought to be protected.
2. The specific law or rule on which protection is based.
3. If the basis for protection is that the information is trade secret:
 - a. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons;
 - b. An explanation of why the information is not readily ascertainable by proper means by other persons;
 - c. A general description of the persons or entities that would obtain economic value from disclosure or use of the information;
 - d. A specific description of known competitors and competitors' goods and services that are pertinent to the tariff or rate filing; and
 - e. A description of the efforts used to maintain the secrecy of the information.
4. If the basis for protection is a reason other than that the information is trade secret, the specific basis or bases upon which the information qualifies for protection.
5. A redacted public version of the information, unless this requirement is waived by the commission. The amount redacted must be as minimal as possible. If it is not possible to file a redacted public version, a specific written request for waiver of the requirement and the reasons for requesting a waiver must be filed.

History: Effective March 1, 1994; amended effective April 1, 2015; October 1, 2017.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 28-32-06, 44-04-18.4, 47-25.1

69-02-09-02. Filing of application.

1. The application must be addressed to and filed with the executive secretary of the commission.
2. The protected material filed with the application or pursuant to section 69-02-09-13 must be separately bound and placed in a sealed envelope, or other appropriate, sealed container, which must be labeled: **PROTECTED INFORMATION - PRIVATE**. An original and seven copies of the public portion of the application must be filed unless this requirement is waived by the commission. Only one copy of the protected material may be filed.

History: Effective March 1, 1994; amended effective April 1, 2015; October 1, 2017.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 28-32-06, 44-04-18.4, 47-25.1

69-02-09-13. Information filed ~~under sections 69-09-05-12 and 69-09-05-12.1~~ by telecommunications companies.

Information ~~filed to comply with subdivision b of subsection 3 of section 69-09-05-12 or section 69-09-05-12.1~~ identified in subsections 1 through 5 of this section is protected without need for the originator to file an application and without further action by the commission, unless the commission orders otherwise. ~~Sections 69-02-09-01~~ Subsections 1 through 69-02-09-044 of section 69-02-09-01, subsection 1 of section 69-02-09-02, sections 69-02-09-03, 69-02-09-04, and subsection 1 of section 69-02-09-05 do not apply to information filed ~~to comply with subdivision b of subsection 3 of section 69-09-05-12, or subsections 1, 2, or 3 of section 69-09-05-12.1~~ under this section.

1. Detailed information concerning telecommunications infrastructure projects.
2. Disaggregated data on provisioned volumes of local services by service type and local exchange.
3. Disaggregated data on provisioned volumes and associated revenue of switched access traffic by jurisdiction or local exchange.
4. Detailed information on service outages as defined in title 47, Code of Federal Regulations, part 4, section 4.5, in effect as of January 30, 2017.
5. Financial information required by the federal communications commission to be copied to the commission, accompanied by the filing of a copy of the federal communications commission's protective order for that information.

History: Effective April 1, 2015; amended effective October 1, 2017.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 28-32-06, 44-04-18.4, 47-25.1