



North Dakota Legislative Council

Prepared for the Administrative Rules Committee
LC# 27.9077.01000
September 2025

GUIDELINES UNDER NORTH DAKOTA CENTURY CODE SECTION 28-32-10

North Dakota Century Code Section 28-32-10(4) directs the Legislative Council to establish standard procedures for administrative agencies and the North Dakota Ethics Commission to follow in complying with the provisions of Section 28-32-10 and a procedure whereby a person may request and receive mailed copies of all filings made by agencies and the commission pursuant to Section 28-32-10. The text of Section 28-32-10 is included at the end of this memorandum. These guidelines are adopted under that directive.

CONTENT OF NOTICE

The notices provided by administrative agencies and the Ethics Commission regarding proposed rulemaking must contain the information required by Section 28-32-10(1).

Whether a rule is expected to have an impact on the regulated community in excess of \$50,000 depends on whether there is a reasonable expectation of a reasonably foreseeable cumulative negative fiscal impact to an identifiable regulated community in excess of \$50,000 in any 12-month period, which would not occur if the rule is not adopted. Any doubt about issuance of a regulatory analysis should be resolved in favor of issuance.

The address for submission of written data, views, or arguments should include the name of the person responsible for receiving this information. The notice should state the beginning and ending dates of the period during which written comments on the proposed rules will be accepted.

MAILING OF NOTICE

Each administrative agency and the Ethics Commission shall maintain a mailing list of persons who have requested notice of the agency or commission's rulemaking activity. A person desiring inclusion on the mailing list must be included, but the agency or the commission may update the list periodically by contacting those on the list to determine whether the person remains interested in being on the list. The mailing list may be subdivided according to subject matter if it is likely persons on the list would be interested in receiving notice only regarding rules within a discrete area of the agency's or the commission's jurisdiction. An administrative agency and the commission may charge the actual cost of providing copies of the notice and regulatory analysis and may require the cost to be paid before delivering copies.

COMMENTS TO PROPOSED RULEMAKING

Submissions received during the comment period for rulemaking must be made part of the written rulemaking record of the administrative agency or the Ethics Commission.

NOTICE OF PROPOSED RULEMAKING SERVICE

The Legislative Council will mail copies of all notices of proposed rulemaking filed by administrative agencies and the Ethics Commission pursuant to Section 28-32-10(1)(a) to a subscriber to the notice of proposed rulemaking service. A person may subscribe to the service upon paying an annual subscription fee of \$50 or subscribe to the RSS feed to receive rulemaking notices digitally at no cost.

SECTION 28-32-10**28-32-10. Notice of rulemaking - Hearing date.**

1. An agency or the commission shall prepare a full notice and an abbreviated notice of rulemaking.
 - a. The full notice of the proposed adoption, amendment, or repeal of a rule must include a short, specific explanation of the proposed rule and the purpose of the proposed rule, identify the emergency status and declared effective date of any emergency rules, include a determination of whether the proposed rulemaking is expected to have an impact on the regulated community in excess of fifty thousand dollars, identify at least one location where interested persons may review the text of the proposed rule, provide the address to which written comments concerning the proposed rule may be sent, provide the deadline for submission of written comments, provide a telephone number and post-office or electronic mail address at which a copy of the rules and regulatory analysis may be requested, and, in the case of a substantive rule, provide the time and place set for each oral hearing. An agency's full notice must include a statement of the bill number and general subject matter of any legislation, enacted during the most recent session of the legislative assembly, which is being implemented by the proposed rule. The commission's full notice must include a statement of the provision of the Constitution of North Dakota or the bill number and general subject matter of any legislation that is being implemented by the proposed rule. The full notice must be filed with the legislative council, accompanied by a copy of the proposed rules.
 - b. The agency or commission shall request publication of an abbreviated newspaper publication notice at least once in each official county newspaper published in this state, which must:
 - (1) Be in a display-type format with a minimum width of one column of approximately two inches [5.08 centimeters] and a minimum depth of approximately three inches [7.62 centimeters] and with a headline describing the general topic of the proposed rules.
 - (2) Include the telephone number or address to use to obtain a copy of the proposed rules, identification of the emergency status and declared effective date of any emergency rules, the address to use and the deadline to submit written comments, the location, date, and time of the public hearing on the rules, and a short description of the general subject matter of the proposed rules submission. The notice also may include a quick response code providing access to the full notice or additional information related to the proposed rules at the discretion of the agency or commission.
2. The agency or commission shall mail or deliver by electronic mail a copy of the full notice and proposed rule to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation, enacted during the most recent session of the legislative assembly, which is being implemented by the proposed rule and to each person who has made a timely request to the agency or commission for a copy of the notice and proposed rule. The agency or commission may mail or otherwise provide a copy of the full notice to any person who is likely to be an interested person. The agency or commission may charge persons who are not members of the legislative assembly fees for copies of the proposed rule as allowed under section 44-04-18.
3. In addition to the other notice requirements of this subsection, the superintendent of public instruction shall provide notice of any proposed rulemaking by the superintendent of public instruction to each association with statewide membership whose primary focus is elementary and secondary education issues which has requested to receive notice from the superintendent under this subsection and to the superintendent of each public school district in this state, or the president of the school board for school districts that have no superintendent, at least twenty days before the date of the hearing described in the notice.

Notice provided by the superintendent of public instruction under this section must be by first-class mail. However, upon request of a group or person entitled to notice under this section, the superintendent of public instruction shall provide the group or person notice by electronic mail.

4. The legislative council shall establish standard procedures for the commission and all agencies to follow in complying with the provisions of this section and a procedure to allow any person to request and receive mailed copies of all filings made by agencies and the commission pursuant to this section. The legislative council may charge an annual fee as established by the administrative rules committee for providing copies of the filings.
5. At least twenty days must elapse between the date of the publication of the notice and the date of the hearing. Within fifteen business days after receipt of a notice under this section, a copy of the notice must be mailed by the legislative council to any person who has paid the annual fee established under subsection 4.