

REGISTER



South Dakota Legislative Research Council

Volume 39

Monday, 8:00 a.m., June 17, 2013

NOTICE OF PROPOSED RULES: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Department of Public Safety: (June 11, 2013) intends to amend rules to provide the minimum requirements for obtaining and maintaining school bus inspector certification from the Highway Patrol and the process for revoking and regaining school bus inspector certification; update the adoption of the Commercial Vehicle Safety Alliance North American standard Out-of-service Criteria; further define unprofessional or dishonorable conduct for purposes of emergency medical technician-basic licensure, to provide for revoking and regaining of emergency medical technician-basic licensure for unprofessional or dishonorable conduct, and to clarify that transfer-only ambulance services are prohibited in South Dakota; allow the Director of Highway Safety to approve motorcycle safety course curricula, and set forth the process for approving motorcycle safety course curricula; update the Code of Federal Regulation adoptions for commercial driver licensing rules, and change the commercial driver licensing third party tester fees from \$80 to \$90. The general authority for these rules, as cited by the department, is SDCL §§ 13-29-6, 32-20-14, 34-11-5, 34-11-6.1, 32-12A-48, and 49-28A-2.

A public hearing will be held in the Conference Room, 2nd floor, Department of Public Safety, Sutherland Building, Pierre, South Dakota, on July 10, 2013, at 10:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Public Safety, 118 West Capitol, Pierre, South Dakota 57501. Material

sent by mail must reach the Department of Public Safety by July 22, 2013, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3178 at least 48 hours before the hearing.

NOTICE:

The **Department of Social Services** intends to make the following changes to the South Dakota Medicaid State Plan concerning the dispensing fee for pharmacies in State Fiscal Year 2014, effective July 1, 2013. The proposed State Plan Amendment (SPA) implements the State Fiscal Year 2014 budget appropriations. The proposed changes amend Attachment 4.19-B of the State Plan, page 20. The Federal fiscal impact associated with this amendment for Federal Fiscal Year 2013 is \$13,877 and \$41,630 for Federal Fiscal Year 2014. Written requests for a copy of these changes, and corresponding comments, may be sent to Kirby Stone, State Medicaid Director, Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501-2291.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF LABOR AND REGULATION: SOUTH DAKOTA RETIREMENT SYSTEM: 62:01:01:04; 62:01:07:09.02, 62:01:07:10; 62:01:08:01, 62:01:08:03; 62:01:09:08; 62:03:01:01, 62:03:01:02; 62:03:03:02.01; 62:03:04:05, 62:03:04:05.01; 62:03:05:05.01, 62:03:05:08;

62:03:06:03, 62:03:06:03.03, 62:03:06:07;
62:04:01:03, and 62:04:03:02.

History-Notice: 39 SDR 153, March 18, 2013
Hearing: April 3, 2013
Filed: June 10, 2013
Effective: July 1, 2013

DEPARTMENT OF EDUCATION: BOARD OF EDUCATION: 24:15:03:05.

History-Notice: 39 SDR 171, April 15, 2013
Hearing: May 20, 2013
Filed: June 11, 2013
Effective: July 1, 2013

Executive Appointments:

David L. Anderson, District 16, Hudson, was appointed on May 20, 2013, to the **South Dakota House of Representatives**, to fill the unexpired term of Representative Patricia (Patty) Miller who resigned. This appointment is effective immediately.

Blake Curd, District 12, Sioux Falls, was appointed on June 6, 2013, to the **South Dakota Senate**, to fill the unexpired term of Senator

Mark Johnston who resigned. This appointment is effective immediately.

Kimberlie Stahl, Pierre, was appointed on June 6, 2013, to the position of **Interim Commissioner of the Bureau of Human Resources**, effective June 10, 2013, and shall continue at the pleasure of the Governor.

Executive Proclamation:

The Governor has issued an **Executive Proclamation**, dated June 14, 2013, to revoke and rescind a previous Executive Proclamation dated June 1, 2013, and cancel the special session of the South Dakota Legislature which was scheduled for June 22, 2013.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

6-18-2013	Department of Social Services: Division of Medical Services	Amend rules to remove outdated payment rate calculation information for in-state inpatient services and certain outpatient services; clarify that reimbursement for out-of-state hospital inpatient services and certain outpatient services is calculated at a percentage of charges as appropriated by the legislature, and specify that the dispensing fees for certain items dispensed by a pharmacy or public health service provider can be found on the department's website; 39 SDR 211.
6-27-2013	Environment and Natural Resources: Board of Water and Natural Resources <i>(As amended June 4, 2013)</i>	Amend Director Areas in Water Development Districts rules to redraw the director areas in the James River, East Dakota, and West Dakota Water Development District areas; amend Consolidated Water Facilities

		<p>Construction Program rules to allow applicants to receive funding for project design activities without being placed in the state water facilities plan <u>allow projects that have received funding from the board to remain in the state water facilities plan for the purpose of requesting additional funding</u>, remove application restrictions that prohibit a project receiving more than one grant and one loan in a program year, that require applicants that are not funded resubmit an application in order to compete in a subsequent application cycle, and that require a minimum of 40 percent local share of a total project cost unless waived, repeal the section describing the distribution of uncommitted funds, require applicants to submit forms on an application provided by the department, revise the application review process to include eliminating the minimum rate requirement and the related waiver process, include televising and cleaning of sewer lines as an eligible expense, revise the factors for decision making, extend the time allowed to use funds from 3 years to 4 years, revise the provision that the department conduct an overall review of the applicant's financial status, repeal the provision that the board may require an environmental statement, repeal the technical requirements regarding land surveys, plans and specification preparation, and the establishment of monitoring wells, and update or eliminate incorrect statute references and make other minor grammatical changes; amend State Water Pollution Control Revolving Fund Program rules to allow applicants to receive funding for project design activities without being placed in the state water facilities plan, allow projects that have received funding from the board to remain in the state water facilities plan for the purpose of requesting additional funding, repeal the duplicative requirement for the preparation of plans and specifications, allow applicants to be awarded solid waste management funds in lieu of or in an addition to funds from State Revolving Pollution Control Revolving Fund program, allow all nonpoint source projects to receive principal</p>
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	<p>forgiveness without meeting the minimum established rate, repeal the requirement that a financial status be prepared and provided to the board before a loan is executed and make the financial status review and preparation part of the application review process, and update or correct references to the Clean Water Act authorizing legislation, census data, and state statutes and make other minor grammatical changes; amend Solid Waste Management Program rules to repeal the provision that requires a minimum of 40 percent local share of a total project cost, repeal the requirement that a financial status be prepared and provided to the board before a loan is executed and make the financial status review and preparation part of the application process, discontinue using the price for recyclable materials as a criteria on which to base interest rates and begin using the current rate of alternate federal or state programs as a criteria, repeal the provision that requires the applicant to provide proof of certain permits prior to disbursement of funds, repeal the provision that the board may require an environmental statement, repeal the technical requirements regarding land surveys and plans and specification preparation, revise the period for drawing funds from two years with a one-year extension with board approval to three years, repeal the section describing the distribution of uncommitted funds, eliminate the board's ability to waive the required debt coverage ratio due to financial hardship, require recipients to maintain proper accounting records, and update or correct statute references and make other minor grammatical changes; and amend Drinking Water State Revolving Fund Program rules to allow applicants to receive funding for project design activities without being placed in the state water facilities plan, allow projects that have received funding from the board to remain in the state water facilities plan for the purpose of requesting additional funding, repeal the duplicative requirement regarding plans and specification preparation, repeal the requirement that a financial status be prepared</p>
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		and provided to the board before a loan is executed and make the financial status review and preparation part of the application review process, make principal forgiveness available to disadvantaged communities, and update or correct references to the Drinking Water Act authorizing legislation, census data, and state statutes and make other minor grammatical changes; 39 SDR 201.
7-10-2013	Public Safety	Amend rules to provide the minimum requirements for obtaining and maintaining school bus inspector certification from the Highway Patrol and the process for revoking and regaining school bus inspector certification; update the adoption of the Commercial Vehicle Safety Alliance North American standard Out-of-service Criteria; further define unprofessional or dishonorable conduct for purposes of emergency medical technician-basic licensure, to provide for revoking and regaining of emergency medical technician-basic licensure for unprofessional or dishonorable conduct, and to clarify that transfer-only ambulance services are prohibited in South Dakota; allow the Director of Highway Safety to approve motorcycle safety course curricula, and set forth the process for approving motorcycle safety course curricula; update the Code of Federal Regulation adoptions for commercial driver licensing rules, and change the commercial driver licensing third party tester fees from \$80 to \$90; 39 SDR 227.
7-12-2013	Health: Board of Pharmacy	Amend rules to establish the ability of pharmacies to retain health records, including prescription orders, in an electronic format; 39 SDR 211.
8-15-2013	Environment and Natural Resources: Board of Minerals and Environment	Update the state's existing hazardous waste rules by incorporating updated federal regulations by reference. These updates reflect changes made to the federal hazardous waste rules from July 1, 2010 through June 30, 2012. Changes include establishing procedures for identifying and managing certain hazardous secondary materials destined for recycling, and making technical and typographical corrections to the federal rules; 39 SDR 201.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, July 9, 2013, in Room 413, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2013 interim: August 20, September 17, November 12, and December 17.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.