

REGISTER



South Dakota Legislative Research Council

Volume 40

Monday, 8:00 a.m., July 8, 2013

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

Department of Agriculture: Agricultural Services: (July 2, 2013) is proposing to adopt rules to require additional labeling to dairy producers selling bottled raw milk direct to the consumer. The general authority for these rules, as cited by the department, is SDCL §§ 39-6-9 and 40-32-18.

A public hearing will be held at the South Dakota State Capitol, Room 414, 500 East Capitol, Pierre, South Dakota, on July 26, 2013, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to the South Dakota Department of Agriculture, Agricultural Services, 523 East Capitol, Pierre, South Dakota 57501. Material sent by mail must reach the Department by August 5, 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) 773-4294 at least 48 hours before the hearing.

Department of Labor and Regulation: Cosmetology Commission: (July 2, 2013) intends to amend a rule to increase the allowable field trip hours for cosmetologist students from 16 to 32 hours. The general authority for this rule, as cited by the commission, is SDCL § 36-15-13.

A public hearing will be held at the Cosmetology Commission's office via telephone conference call, 111 East Capitol, Pierre, South Dakota, on July 25, 2013, at 10:00 a.m. (CST).

Individuals may participate in the conference call by calling (605) 773-2303 and entering the conference password of 5271# (for assistance call (605) 773-3011). Copies of the proposed rule may be obtained without charge from and written comments sent to the South Dakota Cosmetology Commission, 500 E. Capitol, Pierre, South Dakota 57501-1234. Material sent by mail must be received by July 19, 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) 773-6193 at least 48 hours before the hearing.

Public Utilities Commission: (July 2, 2013) intends amend rules to update citations for "general authority" and "law implemented"; revise and update the monthly grain report rule; revise the release of bond requirements; require that notice of a suspension or revocation of a grain warehouse license must be posted in all locations where grain is received; put in procedures for the handling of electronic warehouse receipts; revise financial statement requirements for applicants for a warehouse or grain buyer license by changing the types of allowed financial statements and what statements are required under what specified circumstances; revise balance sheet requirements; require a grain buyer's bond to list each location of the buyer; set forth the requirements if an additional bond is furnished by a grain buyer; state when a bond may be released; repeal rules concerning decals for grain buyer vehicles; allow a voluntary credit sale grain contract that is not signed by both parties to be enforceable if a writing in confirmation is sent and no objection is made to

the writing in confirmation; set notice requirements if a grain buyer's license is suspended or revoked; and require notice of the transfer of ownership of a grain buyer's grain receiving facility. The general authority for these rules, as cited by the commission, is SDCL §§ 49-43-2.1, 49-43-4.1, 49-43-56, 49-45-6, and 49-45-11.

A public hearing will be held in Room 414, 4th Floor, State Capitol, 500 East Capitol, Pierre, South Dakota, on July 30, 2013, at 1:00 p.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Public Utilities Commission, State Capitol, 500 East Capitol, Pierre, SD 57501-1234. Copies are also available at the commission's home page at <http://puc.sd.gov/Dockets/Rulemaking/2013/default.aspx>. Material sent by mail must be received by the Public Utilities Commission by August 9, 2013, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-3201 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Clarke Christianson, Sioux Falls, was appointed on June 27, 2013, to the **Independent Living Council**, to replace Larry Puthoff, effective July 1, 2013, and shall continue until June 30, 2016.

Kathleen M. McOwen, Rapid City, was appointed on June 27, 2013, to the **Independent Living Council**, to replace Kenneth Rollman, effective July 1, 2013, and shall continue until June 30, 2016.

Sarah E. Rush, Winner, was reappointed on June 27, 2013, to the **Independent Living Council**, effective immediately and shall continue until June 30, 2016.

Shelly Schock, Rapid City, was reappointed on June 27, 2013, to the **Independent Living Council**, effective immediately and shall continue until June 30, 2017.

Executive Order:

The Governor has signed **Executive Order 2013-10** dated June 28, 2013. This order resolves a conflict between state and federal regulations by recognizing an agricultural exemption from particular Department of Transportation Motor Carrier Safety Regulations provided in the Moving Ahead for Progress in the 21st Century Act. The order shall expire upon conclusion of the emergency, but no later than June 30, 2014.

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

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
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		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.
7-18-2013	Attorney General: Law Enforcement Officers Standards and Training Commission	Adopt rules to establish minimum standards for an individual to act as a school sentinel, a school sentinel training program, and the procedures for the revocation of a school sentinel's certification; 40 SDR 1.
7-18-2013	Education: Board of Education	Amend Special Education rules to reference the most current State and Federal Regulations, remove excessive criteria in eligibility categories, and add provisions to address coordinated early intervening services funded through State Aid for Special Education; amend Career and Technical Education rules to establish a methodology for forecasting contributions from student fees and state appropriations available to meet projected payment schedules on outstanding bonds for lease purchase agreements with the four postsecondary technical institutes and clarify the process by which the Board of Education makes determinations of whether to approve requests for issuance of new bonds from the postsecondary technical institutes; amend an Individualized Family Service Plan rule to remove "working" from 24:14:13:03 (06); amend Certification rules to streamline the

		certification process for military spouses leaving employment as certified teachers in other states to accompany their spouses to South Dakota; amend a State Accreditation and Approval System rule to allow for an accreditation review desk audit rather than team visits to the district being reviewed; and amend Public School Accountability System rules to update and clarify the accountability rules under the Elementary and Secondary Education Act Waiver; 39 SDR 234.
7-18-2013	Public Safety: South Dakota 911 Coordination Board	Amend rules to define "County 911 Coordinator", conform to legislative changes, make the rules uniform in regard to required procedures, remove outdated references, correct a statutory reference, clarify financial and accounting standards requirements, and define allowable personnel costs for County 911 Coordinators and other 911 or PSAP employees; 39 SDR 233.
7-25-2013	Labor and Regulation: Cosmetology Commission	Amend a rule to increase the allowable field trip hours for cosmetologist students from 16 to 32 hours; 40 SDR 7.
7-26-2013	Agriculture: Division of Agricultural Services	Adopt rules to require additional labeling to dairy producers selling bottled raw milk direct to the consumer; 40 SDR 7.
7-30-2013	Public Utilities Commission	Amend rules to update citations for "general authority" and "law implemented"; revise and update the monthly grain report rule; revise the release of bond requirements; require that notice of a suspension or revocation of a grain warehouse license must be posted in all locations where grain is received; put in procedures for the handling of electronic warehouse receipts; revise financial statement requirements for applicants for a warehouse or grain buyer license by changing the types of allowed financial statements and what statements are required under what specified circumstances; revise balance sheet requirements; require a grain buyer's bond to list each location of the buyer; set forth the requirements if an additional bond is furnished by a grain buyer; state when a bond may be released; repeal rules concerning decals for grain buyer vehicles; allow a voluntary credit sale grain contract that is not signed by both parties to be enforceable if a writing in

		confirmation is sent and no objection is made to the writing in confirmation; set notice requirements if a grain buyer's license is suspended or revoked; and require notice of the transfer of ownership of a grain buyer's grain receiving facility; 40 SDR 7.
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, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor, of the State Capitol. Other DDN sites will be: Mitchell – Mitchell Technical Institute, 1800 E. Spruce, Room TC 155; Sioux Falls – University Center, 4801 N. Career Ave., Room FADM 253; Spearfish – Black Hills State University, 1200 University Station, LIB 011; and Yankton – DOT, 1306 W. 31st St. 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>.

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