

REGISTER



South Dakota Legislative Research Council

Volume 40

Monday, 8:00 a.m., July 15, 2013

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

Secretary of State: (July 10, 2013) intends to amend rules to implement legislation concerning the forms accepted for Uniform Commercial Code and to establish a more consistent and practical fee for voter registration files that are sold. The general authority for these rules, as cited by the office, is SDCL §§ 12-4-39 and 57A-9-526.

A public hearing will be held in Room 499, 4th floor, State Capitol, Pierre, South Dakota, on July 31, 2013, at 9:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of State, 500 East Capitol, Suite 204, Pierre, South Dakota 57501. Written comments must be received on or before August 12, 2013, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the office can make arrangements are asked to call (605) 773-3537 at least 48 hours before the hearing.

Secretary of State: Board of Elections: (July 10, 2013) intends to amend rules to update the instructions provided by agencies that administer voter registration; clarify a portion of the potential duplicate notice; implement legislation concerning the voter registration of adult children of overseas citizens; implement legislation concerning the date of a secondary election; clarify language to affirm an inactive voter's current address; and implement legislation concerning absentee voting. The general authority for these rules, as cited by the board, is SDCL §§ 12-1-9, 12-4-35, 12-19-2.

A public hearing will be held in Room 499, 4th floor, State Capitol, Pierre, South Dakota, on July 31, 2013, at 10:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of State, 500 East Capitol, Suite 204, Pierre, South Dakota 57501. Written comments must be received on or before July 30, 2013, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the office can make arrangements are asked to call (605) 773-3537 at least 48 hours before the hearing.

Department of Game, Fish and Parks: (July 11, 2013) intends to amend a Refugees' rule to remove approximately 62.5 acres of privately owned real estate from the Renziehausen Slough State Game Bird Refuge in Brown County; amend Waterfowl Hunting Seasons (Duck Hunting Season) rules to increase the daily bag limit for scaup and increase the possession limit for ducks, coots, and mergansers as recently approved by the U.S. Fish and Wildlife Service; amend Waterfowl Hunting Seasons (Goose Hunting Season) rules to increase the Canada goose daily bag limit contingent upon approval from the U.S. Fish and Wildlife Service, increase the white-fronted goose daily bag limit, modify the white-fronted goose season from 86 to 72 consecutive days beginning the last Saturday of September, and increase the possession limit for geese as recently approved by the U.S. Fish and Wildlife Service; and amend a Depredation Permits rule to allow an individual who wishes to participate in depredation hunts to register for no more than 10 counties. The general authority for these rules, as cited by the department, is SDCL §§ 41-2-18, 41-6-29.1, and 41-11-5.

A public hearing will be held at the Best Western Ramkota Hotel (Watertown Event Center) 1901 9th Avenue SW, Watertown, South Dakota, on August 1, 2013, at 2:00 p.m. CDT. Copies of the proposed rules may be obtained from and written comments sent to Jeffrey R. Vonk, Secretary, Foss Building, 523 East Capitol, Pierre, South Dakota 57501. Written comments must be received by and in the office of the Secretary of the Department of Game, Fish and Parks on or before 12:00 p.m. three (3) days prior to the date of the hearing to be included within the record of the public hearing and to be considered by the Commission. Comments may also be sent by email to Wildinfo@state.sd.us. All written and email comments must include the commenter's name and address. 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) 773-3387 before the hearing.

NOTICE:

The **Department of Social Services** intends to make the following changes to the South Dakota Medicaid State Plan concerning the methodology used to determine eligibility and to update the organizational structure of the state agency effective January 1, 2014, as required by federal law. The proposed State Plan Amendment (SPA) implements several provisions of the Patient Protection and Affordable Care Act of 2010 (PPACA) designed to coordinate Medicaid eligibility and enrollment with the newly created Health Insurance Marketplaces. This SPA is required by the Centers for Medicare and Medicaid Services (CMS) under 42 CFR Parts 431, 435, and 457. The department estimates the federal fiscal impact associated with this SPA will be negligible. 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 ENVIRONMENT AND NATURAL RESOURCES: BOARD OF WATER AND NATURAL RESOURCES:

74:05:05:16, 74:05:05:20, 74:05:05:21;
74:05:07:01 to 74:05:07:03, inclusive,
74:05:07:05, 74:05:07:07 to 74:05:07:08.01,
inclusive, 74:05:07:10, 74:05:07:11,
74:05:07:14 to 74:05:07:17, inclusive,
74:05:07:19, 74:05:07:20, 74:05:07:24;
74:05:08:01, 74:05:08:02, 74:05:08:03.01,
74:05:08:06, 74:05:08:11 to 74:05:08:13.02,
inclusive, 74:05:08:19; 74:05:10:01,
74:05:10:06, 74:05:10:08, 74:05:10:11,
74:05:10:12, 74:05:10:12.02, 74:05:10:13 to
74:05:10:15, inclusive, 74:05:10:17 to
74:05:10:19, inclusive, 74:05:10:26,
74:05:10:28 to 74:05:10:30, inclusive,
74:05:10:32; 74:05:11:01, 74:05:11:02,
74:05:11:06, 74:05:11:09, 74:05:11:10,
74:05:11:12 to 74:05:11:12.02, inclusive, and
74:05:11:18 to 74:05:11:20, inclusive.

History-Notice: 39 SDR 201, May 28, 2013
Hearing: June 27, 2013
Filed: July 9, 2013
Effective: July 29, 2013

DEPARTMENT OF GAME, FISH AND PARKS:

41:03:02:13, 41:03:03:02,
41:03:03:03.01; 41:06:05:03, 41:06:05:03.01;
41:06:14:02, 41:06:14:02.01, 41:06:14:04,
41:06:16:07, 41:06:16:09; 41:06:19:04,
41:06:20:02; 41:06:21:02; 41:06:22:01,
41:06:22:01.01, 41:06:22:02; 41:06:36:02,
41:06:36:02.02; 41:06:41:02; 41:06:44:02.01,
41:06:44:04; 41:06:45:01, and 41:06:45:02.

History-Notice: 39 SDR 191, May 13, 2013
Hearing: June 6, 2013
Filed: July 9, 2013
Effective: July 29, 2013

**DEPARTMENT OF SOCIAL SERVICES:
DIVISION OF MEDICAL SERVICES:**
67:16:03:06, 67:16:03:06.01, 67:16:03:06.04;
and 67:16:14:06.

History-Notice: 39 SDR 211, June 3, 2013
Hearing: June 18, 2013
Filed: July 11, 2013
Effective: July 31, 2013

Executive Appointments:

Dr. Michael F. Bergeron, Sioux Falls, was appointed on July 5, 2013, to the **South Dakota Athletic Commission**, effective immediately and shall continue until June 30, 2016.

Richard Little, Spearfish, was appointed on July 5, 2013, to the **South Dakota Athletic Commission**, effective immediately and shall continue until June 30, 2016.

David Ackerman, Leola, was reappointed on July 8, 2013, to the **South Dakota Public Safety Communications Council**, effective immediately and shall continue until June 30, 2016.

Rebekah Craddock, Sioux Falls, was reappointed on July 8, 2013, to the **South Dakota Public Safety Communications Council**, effective immediately and shall continue until June 30, 2016.

Patrick Czerny, Piedmont, was appointed on July 8, 2013, to the **Board of Service to the Blind and Visually Impaired**, to replace Chuck Fullenkamp, effective immediately and shall continue until June 30, 2016.

Bob Fischer, Custer, was reappointed on July 8, 2013, to the **South Dakota Public Safety Communications Council**, effective immediately and shall continue until June 30, 2016.

Jody D. Frye, North Sioux City, was reappointed on July 8, 2013, to the **South**

Dakota Public Safety Communications Council, effective immediately and shall continue until June 30, 2016.

J. D. Geigle, Spearfish, was reappointed on July 8, 2013, to the **South Dakota Public Safety Communications Council**, effective immediately and shall continue until June 30, 2016.

Dennis Gorton, Rapid City, was reappointed on July 8, 2013, to the **South Dakota Public Safety Communications Council**, effective immediately and shall continue until June 30, 2016.

Larry Jandreau, Lower Brule, was reappointed on July 8, 2013, to the **South Dakota Public Safety Communications Council**, effective immediately and shall continue until June 30, 2016.

Teresa R. Nold, Harrisburg, was appointed on July 8, 2013, to the **Board of Service to the Blind and Visually Impaired**, to replace Joleen Schaffer, effective immediately and shall continue until June 30, 2016.

Lynda I. O'Connor-Ohayon, Sioux Falls, was appointed on July 8, 2013, to the **Board of Service to the Blind and Visually Impaired**, to replace Ed Pinkman, effective immediately and shall continue until June 30, 2016.

Kenneth Rollman, Rapid City, was reappointed on July 8, 2013, to the **Board of Service to the Blind and Visually Impaired**, effective immediately and shall continue until June 30, 2016.

Brad Steifvater, Salem, was reappointed on July 8, 2013, to the **South Dakota Public Safety Communications Council**, effective immediately and shall continue until June 30, 2016.

Michael A. Kilmer, Belle Fourche, was appointed on July 9, 2013, to the **South Dakota**

Athletic Commission, effective immediately and shall continue until June 30, 2015.

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

7-18-2013	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.
7-31-2013	Secretary of State	Amend rules to implement legislation concerning the forms accepted for Uniform Commercial Code and to establish a more consistent and practical fee for voter registration files that are sold; 40 SDR 13.

7-31-2013	Secretary of State: Board of Elections	Amend rules to update the instructions provided by agencies that administer voter registration; clarify a portion of the potential duplicate notice; implement legislation concerning the voter registration of adult children of overseas citizens; implement legislation concerning the date of a secondary election; clarify language to affirm an inactive voter's current address; and implement legislation concerning absentee voting; 40 SDR 13.
8-1-2013	Game, Fish and Parks	Amend a Refuges' rule to remove approximately 62.5 acres of privately owned real estate from the Renziehausen Slough State Game Bird Refuge in Brown County; amend Waterfowl Hunting Seasons (Duck Hunting Season) rules to increase the daily bag limit for scaup and increase the possession limit for ducks, coots, and mergansers as recently approved by the U.S. Fish and Wildlife Service; amend Waterfowl Hunting Seasons (Goose Hunting Season) rules to increase the Canada goose daily bag limit contingent upon approval from the U.S. Fish and Wildlife Service, increase the white-fronted goose daily bag limit, modify the white-fronted goose season from 86 to 72 consecutive days beginning the last Saturday of September, and increase the possession limit for geese as recently approved by the U.S. Fish and Wildlife Service; and amend a Depredation Permits rule to allow an individual who wishes to participate in depredation hunts to register for no more than 10 counties; 40 SDR 13.
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, August 20, 2013, in Room 414, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2013 interim: 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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