

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

400W0173

HOUSE BILL NO. 1055

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to repeal certain outdated and unnecessary statutes and
2 administrative rules related to the Department of Agriculture.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-21-18 be repealed.

5 ~~1-21-18. Unless inconsistent with other provisions of this chapter, all rules that are in effect~~
6 ~~on July 1, 2003, as adopted by the State Fair Commission, shall continue with full force and~~
7 ~~effect until they are specifically altered, amended, or revoked by the adoption of superseding~~
8 ~~rules by the secretary of agriculture.~~

9 Section 2. That § 38-1-5.1 be repealed.

10 ~~38-1-5.1. The divisions formerly enumerated in § 38-1-5 are abolished, and all their~~
11 ~~functions shall be administered by the Department of Agriculture as provided by § 1-41-4.1.~~

12 Section 3. That § 38-1-23 be repealed.

13 ~~38-1-23. The secretary of agriculture shall attend to and have supervision of all~~
14 ~~correspondence relating to immigration and shall try to secure the most effective advertisement~~
15 ~~of the resources and opportunities of the state. It shall be his duty to encourage investments of~~



1 ~~capital within the state and to facilitate the settlement of persons and families seeking new~~
2 ~~homes or establishment of new business enterprises in the state.~~

3 Section 4. That § 38-1-33 be repealed.

4 ~~— 38-1-33. It shall be the duty of the secretary of agriculture to assemble, compile, and~~
5 ~~maintain files of statistical data relating to the work and progress of production and marketing~~
6 ~~cooperative enterprises, the statutes of the several states, and, so far as reasonably convenient,~~
7 ~~those of foreign countries, affecting production and marketing cooperatives. He shall also carry~~
8 ~~standard forms and outlines for use and reference in organization work.~~

9 Section 5. That § 38-1-34 be repealed.

10 ~~— 38-1-34. The secretary of agriculture shall disseminate the information and materials~~
11 ~~described in § 38-1-33 for the use and benefit of established production and marketing~~
12 ~~cooperatives and new production and marketing cooperative projects in process of organization.~~
13 ~~He shall also render such personal assistance to production and marketing cooperatives~~
14 ~~generally as may be possible with the means and facilities at his disposal.~~

15 Section 6. That § 38-1-38.1 be repealed.

16 ~~— 38-1-38.1. The State of South Dakota, its agencies and representatives shall adhere to the~~
17 ~~following principles whenever representing the State of South Dakota before the United States~~
18 ~~Congress, the President, the United States Department of Agriculture, or any other federal~~
19 ~~agency in any matter concerning the cattle industry:~~

20 ~~— (1) — Federal beef import quotas should be broadened to cover all classification of cattle,~~
21 ~~beef, and beef products;~~

22 ~~— (2) — Federal beef import quotas should be correlated with domestic beef production so~~
23 ~~that beef imports will increase when domestic production is low and decrease when~~
24 ~~domestic production is high;~~

1 ~~—(3)— The federal government should require all imported beef and beef products to be~~
2 ~~clearly labeled so as to identify the country of origin;~~

3 ~~—(4)— No meat may be imported into this country unless it meets federal meat inspection~~
4 ~~standards;~~

5 ~~—(5)— Federal health inspection of imported live cattle should be at least as stringent as the~~
6 ~~import health inspection of the exporting country;~~

7 ~~—(6)— The federal government should vigorously enforce all existing statutes and treaty~~
8 ~~restrictions against unfair international trade practices, such as beef export subsidies,~~
9 ~~rebates, and production credits.~~

10 Section 7. That § 38-1-42 be repealed.

11 ~~—38-1-42. The farm link program is hereby established and shall be administered by the~~
12 ~~Department of Agriculture and the South Dakota Cooperative Extension Service. Under the~~
13 ~~program, the department shall create a directory of prospective beginning farmers and ranchers~~
14 ~~and a directory of available or potentially available farms and ranches, which shall be used in~~
15 ~~matching the two groups. The department may, if practicable, use the resources of the South~~
16 ~~Dakota ag enterprise program. In administering the Farm Link Program, the department shall~~
17 ~~attempt to cooperate with similar programs in surrounding states to provide a greater~~
18 ~~opportunity for matching the interests of entering and retiring farmers and ranchers. The~~
19 ~~department shall also make available information on farm lending opportunities.~~

20 Section 8. That § 38-1-43 be repealed.

21 ~~—38-1-43. The Department of Agriculture shall promulgate rules pursuant to chapter 1-26 to~~
22 ~~administer the farm link program established pursuant to § 38-1-42. The rules shall include~~
23 ~~provisions governing program eligibility and procedures for data management, applications, and~~
24 ~~program administration.~~

1 Section 9. That § 38-5-2 be repealed.

2 ~~—38-5-2. It shall be the duty of all directors of equalization to list the name and address of~~
3 ~~each farm operator along with the acreage and production of each crop and number and kind of~~
4 ~~each species of livestock and poultry as required in the census schedule furnished them by the~~
5 ~~secretary of agriculture. No director of equalization shall be entitled to receive compensation~~
6 ~~until he shall have fully complied with the requirements hereof.~~

7 Section 10. That § 38-6-2 be repealed.

8 ~~—38-6-2. The secretary of agriculture shall furnish such surety bond and in such amount as~~
9 ~~the Governor may require conditioned upon the faithful performance of his duties as such~~
10 ~~official and for a true accounting of all money and property coming into his hands as such.~~

11 Section 11. That § 38-7A-2 be repealed.

12 ~~—38-7A-2. The term, shelterbelts, as used in this chapter, includes field shelterbelts, farmstead~~
13 ~~windbreaks, wildlife tree plantings, living snow fences and other tree plantings made~~
14 ~~specifically for conservation purposes. Only shelterbelts planted or renovated after January 1,~~
15 ~~1984, are eligible for certification. Trees planted for ornamental or commercial purposes are not~~
16 ~~eligible. Conservation districts shall adopt technical guidelines and requirements for the design,~~
17 ~~planting, maintenance and renovation of certified shelterbelts, subject to approval of the State~~
18 ~~Conservation Commission.~~

19 Section 12. That § 38-7A-3 be repealed.

20 ~~—38-7A-3. The State Conservation Commission shall establish procedures whereby a~~
21 ~~shelterbelt can be certified. Each conservation district shall use the guidelines established~~
22 ~~pursuant to § 38-7A-2 when an application for certification is submitted by a landowner. On or~~
23 ~~before October first of each year, the conservation district shall provide to the State~~
24 ~~Conservation Commission the eligibility status of each application submitted to the district.~~

1 Section 13. That § 38-7A-4 be repealed.

2 ~~—38-7A-4. Each certified shelterbelt shall be inspected by the respective conservation district~~
3 ~~once every three years or upon change of ownership to determine if the shelterbelt continues to~~
4 ~~meet the guidelines. On or before October first of each year, a conservation district shall submit~~
5 ~~a written report of those shelterbelts which no longer pass certification to the State Conservation~~
6 ~~Commission.~~

7 Section 14. That § 38-7A-5 be repealed.

8 ~~—38-7A-5. On or before November fifteenth of each year, the State Conservation Commission~~
9 ~~shall provide to the secretary of agriculture a list of certified shelterbelts in each county. The list~~
10 ~~shall include the name of each property owner, a legal description of the land involved, the~~
11 ~~acreage involved in each shelterbelt and an acreage total of all of the certified shelterbelts in the~~
12 ~~county.~~

13 Section 15. That § 38-7A-5.1 be repealed.

14 ~~—38-7A-5.1. On or about July first of each year, the secretary of agriculture shall pay the~~
15 ~~owner of a certified shelterbelt five dollars for each acre or part thereof in the certified~~
16 ~~shelterbelt. The secretary shall make payments from money appropriated by the Legislature~~
17 ~~specifically for that purpose.~~

18 Section 16. That § 38-7A-6 be repealed.

19 ~~—38-7A-6. The certification of a new or renovated shelterbelt under the provisions of this~~
20 ~~chapter may not exceed ten years. The State Conservation Commission shall remove the~~
21 ~~certification of any shelterbelt which does not meet the guidelines provided in § 38-7A-2.~~

22 Section 17. That § 38-7A-7 be repealed.

23 ~~—38-7A-7. The certification of any shelterbelt granted under the provisions of this chapter~~
24 ~~may not be removed upon transfer of ownership of the land if the shelterbelt continues to meet~~

1 ~~conservation district standards and is recertified under the provisions of § 38-7A-4.~~

2 Section 18. That § 38-10-13 be repealed.

3 ~~—38-10-13. The executive director and treasurer of the wheat commission each shall file with~~
4 ~~the commission a fidelity bond executed by a surety company authorized to do business in this~~
5 ~~state, in favor of the commission, conditioned for the faithful performance of their duties and~~
6 ~~the strict accounting of all funds to the commission, in the penal sum of ten thousand dollars or~~
7 ~~in such additional amount as the commission may designate.~~

8 Section 19. That § 38-14-1 be repealed.

9 ~~—38-14-1. Any person engaged in the purchase of grain or flaxseed, at more than one place~~
10 ~~in this state, who shall, with the intent and for the purpose of destroying competition,~~
11 ~~discriminate, by direct or indirect methods, between different places, by paying a different price~~
12 ~~for any grain or flaxseed at one place than such person is at the same time paying for the same~~
13 ~~kind of grain or flaxseed at another place within this state, after taking into consideration the~~
14 ~~difference, if any, in the grade and quality of such grain or flaxseed and in the cost of~~
15 ~~transportation from the point where same is purchased to the market where sold or intended to~~
16 ~~be sold, is guilty of discrimination in the purchase of grains and flaxseed, which is a Class 2~~
17 ~~misdemeanor.~~

18 Section 20. That § 38-14-2 be repealed.

19 ~~—38-14-2. Notwithstanding § 38-14-1, any such person engaged in the purchase of grain or~~
20 ~~flaxseed at more than one place in this state, may raise the price paid for any kind, grade, and~~
21 ~~quality of grain or flaxseed in any given place to, but not above, the price being paid for the~~
22 ~~same kind, grade, and quality of grain or flaxseed by another buyer at the same place, when~~
23 ~~necessary to meet actual legitimate competition at such place, without being held to have~~
24 ~~violated the provisions of this chapter.~~

1 Section 21. That § 38-14-3 be repealed.

2 ~~—38-14-3. Notwithstanding § 38-14-1, when one or more such persons are the only persons~~
3 ~~engaged in the purchase of grain or flaxseed at a given place in this state, such person or persons~~
4 ~~may raise prices at that place to, but not above, the prices being paid for the same kind, grade,~~
5 ~~and quality of grain or flaxseed by a buyer at another place in that immediate section, when~~
6 ~~necessary to meet actual legitimate competition, without being held to have violated the~~
7 ~~provisions of this chapter.~~

8 Section 22. That § 38-14-4 be repealed.

9 ~~—38-14-4. Every public warehouseman or miller engaged in the purchase of grain and~~
10 ~~flaxseed, or either, within the state, shall during each day keep posted, in a conspicuous place~~
11 ~~plainly accessible to view from the dump, pit, or place where such grain so purchased is~~
12 ~~unloaded, one slate or card which shall plainly show all prices offered that day by such~~
13 ~~warehouseman or miller, for each kind, grade, and quality of grain and flaxseed, and another~~
14 ~~slate or card plainly showing all prices paid for each kind, grade, and quality of grain or flaxseed~~
15 ~~purchased that day.~~

16 Section 23. That § 38-14-5 be repealed.

17 ~~—38-14-5. When any grain or flaxseed is purchased by a public warehouse or miller engaged~~
18 ~~in the purchase of grain and flaxseed for delivery after the purchase agreement is made, the~~
19 ~~terms of such agreement shall be reduced to writing in duplicate, showing the date, place, kind,~~
20 ~~grade, and quality, number of bushels, price agreed upon, period allowed for delivery, and the~~
21 ~~signatures of the seller and buyer or their agents. One copy shall be retained by the seller and~~
22 ~~the other by the buyer as a permanent record in his office.~~

23 Section 24. That § 38-14-6 be repealed.

24 ~~—38-14-6. A violation of any provision of this chapter is a Class 2 misdemeanor.~~

1 Section 25. That § 38-14-7 be repealed.

2 ~~—38-14-7. If complaint shall be made to the Public Utilities Commission that any person is~~
3 ~~guilty of discrimination as defined in this chapter, said commission shall investigate such~~
4 ~~complaint within thirty days, and for such purpose, insofar as applicable, the procedure before~~
5 ~~the Public Utilities Commission in cases involving the rates, facilities, service, or other affairs~~
6 ~~of railroads in this state, including notices of hearing, the conducting of hearings, compelling~~
7 ~~the attendance and testimony of witnesses and the production of records, data, and information;~~
8 ~~the preparation, recording, and serving of reports and orders of the commission, shall be~~
9 ~~followed and shall govern in all proceedings and investigations before the commission under~~
10 ~~the provisions of this chapter.~~

11 Section 26. That § 38-14-8 be repealed.

12 ~~—38-14-8. After investigation or hearing upon a complaint under § 38-14-7 the Public Utilities~~
13 ~~Commission may, by proper order and for good cause shown, revoke the license of such person~~
14 ~~to purchase grain or flaxseed in this state, but such person shall have all the rights of rehearing~~
15 ~~and review as to such order of the commission as is provided by statute or rule relating to~~
16 ~~rehearings, reviews, and appeals from decisions or orders of the Public Utilities Commission.~~

17 Section 27. That § 38-21-14.1 be repealed.

18 ~~—38-21-14.1. Any person supervising bean buggy or bean bar riders, as defined in subdivision~~
19 ~~38-21-14(21)(a), shall instruct the riders in pesticide application safety procedures and in the~~
20 ~~benefits of, and procedures for, wearing protective clothing while spraying pesticides.~~

21 Section 28. That § 38-23-1 be repealed.

22 ~~—38-23-1. The Department of Agriculture shall collect, preserve, publish, and disseminate~~
23 ~~information pertaining to horticulture and to promote tree planting, fruit growing, and~~
24 ~~floriculture in the state.~~

1 Section 29. That § 38-23-1.1 be repealed.

2 ~~38-23-1.1. The Department of Horticulture is abolished, and all its functions shall be~~
3 ~~administered by the Department of Agriculture as provided by § 1-41-4.1.~~

4 Section 30. That § 39-23-1 be repealed.

5 ~~39-23-1. Terms used in this chapter mean:~~

6 ~~(1) "Organic food," any food product, including meat, dairy, or a beverage, that is~~
7 ~~marketed or sold using the term, or a derivative of the term, organic food in the~~
8 ~~labeling or advertising of the product;~~

9 ~~(2) "Pesticides," any synthetic herbicide, insecticide, or fungicide or any other toxic~~
10 ~~material. However, the term does not include material from naturally derived~~
11 ~~substances;~~

12 ~~(3) "Secretary," the secretary of the South Dakota Department of Agriculture;~~

13 ~~(4) "Synthetic fertilizer," all nitrogen sources derived from ammonia, phosphorus~~
14 ~~derived from the acid treatment of rock phosphates, refined or highly soluble~~
15 ~~potassium salts, whether manufactured or mined, and all other chemically refined,~~
16 ~~synthesized, or acid treated material;~~

17 ~~(5) "Vendor," any person who sells organic food to a consumer or another vendor, or~~
18 ~~who processes, manufactures, or otherwise transforms an organic food on behalf of~~
19 ~~a seller of organic food;~~

20 ~~(6) "Verification," a system maintained by the vendor of organic foods that demonstrates~~
21 ~~compliance with standards under which product identity may be traced from farm to~~
22 ~~consumer, using a series of documents that record information about the vendor's~~
23 ~~production and processing techniques.~~

24 Section 31. That § 39-23-2 be repealed.

1 ~~39-23-2. No product may be labeled as an organic food unless:~~

2 ~~(1) The product was grown or raised, or is composed of ingredients that were grown or~~
3 ~~raised, without the use of synthetic fertilizers, pesticides, hormones, antibiotics,~~
4 ~~growth stimulants, arsenicals, or other synthetic products. However, treated seed may~~
5 ~~be used if untreated seed is not available;~~

6 ~~(2) The soil on which the organic food was grown or raised has been free of synthetic~~
7 ~~fertilizers, pesticides, hormones, antibiotics, growth stimulants, and arsenicals for a~~
8 ~~minimum of three years prior to the harvest of the organic food;~~

9 ~~(3) No synthetic products were used in the storage, processing, or manufacturing process.~~

10 Section 32. That § 39-23-3 be repealed.

11 ~~39-23-3. Any vendor using the term organic food on the label of any product shall:~~

12 ~~(1) Use only raw materials in the product which conform to the standards in § 39-23-2;~~

13 ~~(2) Have sufficient verification to ensure that all products labeled as organic foods are~~
14 ~~in compliance with the standards in § 39-23-2;~~

15 ~~(3) Utilize a verification system established by the secretary of agriculture pursuant to~~
16 ~~§ 39-23-4.~~

17 Section 33. That § 39-23-4 be repealed.

18 ~~39-23-4. The secretary of agriculture shall establish, by rules promulgated pursuant to~~
19 ~~chapter 1-26, a verification system. The system may include requirements regarding records~~
20 ~~which document inspection visits, records which document inventory, and other record-keeping~~
21 ~~requirements necessary to demonstrate compliance with the standards set forth in this chapter.~~

22 Section 34. That § 41-20-21 be repealed.

23 ~~41-20-21. All moneys received from the sale of trees and seeds shall be placed in the~~
24 ~~forestry fund created in § 41-20-22.~~

1 Section 35. That § 41-20A-13 be repealed.

2 ~~—41-20A-13. The Department of Agriculture may assist, cooperate, and enter agreements with~~
3 ~~any agency of the United States government; any state, county, or municipal agency; any fire~~
4 ~~suppression organization; any person qualified by the state wildland fire coordinator; or any~~
5 ~~person needed for an incident management team for the purposes of training and of fire~~
6 ~~prevention or suppression.~~

7 Section 36. That § 41-22-1 be repealed.

8 ~~—41-22-1. The Governor may negotiate a long-term lease, not to exceed twenty years, or a~~
9 ~~lease-purchase agreement for the operation of the state tree nursery.~~

10 Section 37. That § 41-22-2 be repealed.

11 ~~—41-22-2. The lease or lease-purchase agreement authorized in § 41-22-1 may also include~~
12 ~~the negotiated sale or lease of the personal property including nursery stock at the facility,~~
13 ~~notwithstanding any other provision of law.~~

14 Section 38. That § 41-22-3 be repealed.

15 ~~—41-22-3. Any lease or lease-purchase agreement negotiated pursuant to this chapter, shall~~
16 ~~include a provision for discount tree purchases for any political subdivision of the state,~~
17 ~~including the State of South Dakota and a provision for preference purchasing by such political~~
18 ~~subdivisions and the state.~~

19 Section 39. That ARSD 12:07:16:02 be repealed.

20 ~~—12:07:16:02. Purpose. The agriculture finance counseling program shall provide assistance~~
21 ~~to South Dakota farmers or ranchers who are experiencing difficulties with financial~~
22 ~~management.~~

23 Section 40. That ARSD 12:07:16:01 and 12:07:16:03 to 12:07:16:06, inclusive, be repealed.

24 Section 41. That ARSD 12:07:18:02 be repealed.

1 ~~12:07:18:02. Eligibility requirements. To be eligible for the farm link program, an applicant~~
2 ~~must meet the following requirements:~~

3 ~~—(1) Seller: Be a current owner of a farm or ranch and be willing to sell an existing operation;~~

4 ~~—(2) Beginning farmer: Be a prospective beginning farmer or rancher who is willing to~~
5 ~~purchase a farm or ranch and who will materially and substantially participate in the operation~~
6 ~~of the farm or ranch and will become the primary owner and operator of a farm or ranch as a~~
7 ~~means of livelihood.~~

8 Section 42. That ARSD 12:07:18:01 and 12:07:18:03 to 12:07:18:05, inclusive, be repealed.

9 Section 43. That ARSD 12:07:20:02 be repealed.

10 ~~12:07:20:02. Purpose. The stock purchase guaranty program is designed to enable farmers~~
11 ~~and ranchers the opportunity to invest in producer-involved cooperatives in South Dakota.~~

12 Section 44. That ARSD 12:20:07:01 and 12:07:20:03 to 12:07:20:20, inclusive, be repealed.

13 Section 45. That ARSD 12:44:05:04 be repealed.

14 ~~12:44:05:04. Exemptions. Existing bulk commercial fertilizer storage containers with the~~
15 ~~capacity of 100,000 gallons or more are exempt from the requirements of § 12:44:05:07 and~~
16 ~~subdivision 12:44:05:14(4) if the following alterations are made by February 1, 1996:~~

17 ~~—(1) A layer of smooth, fine gravel or coarse sand at least three inches thick shall be placed~~
18 ~~over the original bottom of the storage containers, and a second bottom made of steel shall be~~
19 ~~constructed and placed over the layer of gravel or sand;~~

20 ~~—(2) The original bottom of the storage container shall be tested for leaks before the sand~~
21 ~~layer and second bottom are installed. A record of the test shall be kept on file at the storage~~
22 ~~facility;~~

23 ~~—(3) The newly constructed bottom shall be tested for leaks before any liquid fertilizer is~~
24 ~~stored on the newly constructed bottom. A record of the test shall be kept on file at the storage~~

1 facility;

2 ~~—(4) A method by which leaks from the newly constructed bottom into the sand layer may~~
3 ~~be readily detected must be available. This may be accomplished by the establishment of weep~~
4 ~~holes or drainage ports on the exterior of the storage container in the area between the original~~
5 ~~bottom and the new bottom; and~~

6 ~~—(5) Containers must be equipped with a means of secondary containment which is of~~
7 ~~sufficient thickness and strength to withstand loading conditions and the discharge of maximum~~
8 ~~tank capacity, considering the full hydrostatic head of the discharged liquid, and large enough~~
9 ~~in volume to contain the maximum amount of discharged liquid before meeting a point of~~
10 ~~equilibrium between the liquid remaining in the container and the liquid in secondary~~
11 ~~containment, taking into consideration the wall height of the secondary containment and the~~
12 ~~distance of the wall from the storage container. If secondary containment is obtained by the~~
13 ~~method described in subdivision 12:44:05:07(5) and §§ 12:44:05:08 to 12:44:05:10, inclusive,~~
14 ~~apply.~~

15 Section 46. That ARSD 12:44:05:05 be repealed.

16 ~~—12:44:05:05. Alternative means for second bottom for containers with the capacity of~~
17 ~~100,000 gallons or more. The secretary may approve a second bottom made of materials other~~
18 ~~than those described in § 12:44:05:04 if the materials, considering the substances held in the~~
19 ~~storage container, provide substantially similar protection as that described in §§ 12:44:05:04~~
20 ~~and 12:44:05:07. A request to the secretary for approval must be supported by a plan, certified~~
21 ~~by a licensed professional engineer, showing that the proposed use of other materials will~~
22 ~~provide the required protection.~~

23 Section 47. That ARSD 12:44:05:14 be repealed.

24 ~~—12:44:05:14. Requirements for existing bulk commercial fertilizer storage sites. A bulk~~

1 ~~commercial fertilizer storage site established before July 1, 1989, must meet the following~~
2 ~~requirements by the dates specified:~~

3 ~~—(1) All fittings which are threaded into the side or bottom of storage containers must be~~
4 ~~constructed of stainless steel. This requirement must be completed by February 1, 1990, unless~~
5 ~~the containers are within secondary containment constructed in accordance with § 12:44:05:04~~
6 ~~or 12:44:05:07;~~

7 ~~—(2) All storage containers that are equipped with sight gauges on the side of the containers~~
8 ~~must have a shutoff valve located on the lower fitting of the sight gauge assembly. This~~
9 ~~requirement must be completed by September 1, 1990, unless the containers are within~~
10 ~~secondary containment constructed in accordance with § 12:44:05:04 or 12:44:05:07;~~

11 ~~—(3) The operator of the bulk commercial fertilizer storage site must file a bulk commercial~~
12 ~~fertilizer storage facility permit application as required by § 12:44:05:25 by February 1, 1990;~~

13 ~~—(4) The bulk commercial fertilizer storage site must meet the requirements of §§~~
14 ~~12:44:05:27 and 12:44:05:28 by February 1, 1992; and~~

15 ~~—(5) The bulk commercial fertilizer storage site must have secondary containment~~
16 ~~constructed in accordance with § 12:44:05:07 by February 1, 1995.~~

17 Section 48. That ARSD 12:44:05:22 be repealed.

18 ~~—12:44:05:22. Bulk commercial fertilizer storage sites construction before July 1, 1989. Bulk~~
19 ~~commercial fertilizer storage sites constructed of concrete block before July 1, 1989, may be~~
20 ~~considered for approval after inspection by the secretary. Bulk commercial fertilizer storage sites~~
21 ~~constructed of brick before July 1, 1989, may not be considered for approval.~~

22 Section 49. That ARSD 12:53:01:04 be repealed.

23 ~~—12:53:01:04. Special purpose products to guarantee ingredients. Sellers of special purpose~~
24 ~~products shall guarantee the quantity of the principal active ingredients of the product.~~

1 Section 50. That ARSD 12:56:04:12.04 be repealed.

2 ~~—12:56:04:12.04. Livestock protection collar. Commercial applicators using the restricted~~
3 ~~use livestock protection collar for control of coyote predation must be certified for the use of~~
4 ~~the livestock protection collar.~~

5 Section 51. That ARSD 12:56:05:04.16 be repealed.

6 ~~—12:56:05:04.16. Additional standards for certification in use of livestock protection collar.~~
7 ~~In addition to meeting general standards in § 12:56:05:04, commercial applicators classified~~
8 ~~within the classification of livestock protection collar shall be tested on their understanding and~~
9 ~~knowledge of the following:~~

10 ~~—(1) Reading and understanding label and labeling information, including all use restrictions;~~

11 ~~—(2) Recognizing the technical name, sodium fluoracetate, and understanding the basic~~
12 ~~properties of Compound 1080;~~

13 ~~—(3) Recognizing potential hazards to humans, domestic animals, and to nontarget wildlife;~~

14 ~~—(4) Recognizing general symptoms of poisoning by Compound 1080 in humans and~~
15 ~~domestic animals and taking appropriate action;~~

16 ~~—(5) Recognizing situations where collars can be expected to be safe and effective in addition~~
17 ~~to being aware of alternative means of control;~~

18 ~~—(6) Keeping required records on use of collars;~~

19 ~~—(7) Making required reports of suspected poisoning on nontarget species and suspected~~
20 ~~poisonings of humans or domestic animals to the department of agriculture;~~

21 ~~—(8) Distinguishing between damaged collars that can be repaired and those that must be~~
22 ~~disposed of properly;~~

23 ~~—(9) Making repairs to damaged collars prior to reuse or proper disposal;~~

24 ~~—(10) Proper disposal of animal remains, and vegetation or soil contaminated by a punctured~~

1 collar;

2 ~~—(11) Posting and maintaining bilingual warning signs at logical points of access to areas~~
3 ~~where collars are in use; and~~

4 ~~—(12) Performing weekly or more frequent inspections of collars in use.~~

5 Section 52. That ARSD 12:56:12:01.01 be repealed.

6 ~~—12:56:12:01.01. Standards for private applicator certification for use of livestock protection~~
7 ~~collar. In addition to meeting standards in § 12:56:12:01, private applicators classified within~~
8 ~~the classification of livestock protection collar shall meet standards in §§ 12:56:05:04 and~~
9 ~~12:56:05:04.16.~~

10 Section 53. That ARSD 12:56:13:05 be repealed.

11 ~~—12:56:13:05. Effective date of bulk pesticide storage facility requirements. All bulk~~
12 ~~pesticide storage facilities must be constructed and operated in compliance with these rules.~~
13 ~~Bulk pesticide storage facilities constructed prior to the effective date of these rules must be in~~
14 ~~compliance with §§ 12:56:13:01 to 12:56:13:06, inclusive, by January 1, 1987.~~

15 Section 54. That ARSD 12:56:13:05.05 be repealed.

16 ~~—12:56:13:05.05. Bulk pesticide storage facilities constructed prior to December 8, 1985.~~
17 ~~Bulk pesticide storage facilities constructed of concrete block prior to December 8, 1985, will~~
18 ~~be considered for approval after inspection by the secretary. Bulk pesticide storage facilities~~
19 ~~constructed of brick prior to December 8, 1985, will not be considered for approval. Bulk~~
20 ~~pesticide storage facilities constructed of concrete block or brick after December 8, 1985, will~~
21 ~~not be considered for approval by the secretary.~~

22 Section 55. That ARSD 12:56:16:01 be repealed.

23 ~~—12:56:16:01. Livestock protection collar records required. Each private applicator of~~
24 ~~livestock protection collars shall keep records which include the following for each application:~~

1 ~~—(1) The number of collars placed on livestock;~~

2 ~~—(2) The date of application; and~~

3 ~~—(3) The location of collared animals.~~

4 ~~— In addition, applicators shall record the number of collars purchased or leased, the number~~
5 ~~of collars punctured or ruptured including apparent cause, the number of collars lost or~~
6 ~~unrecovered, the number of collars in storage, and the species, date, and location of each animal~~
7 ~~found poisoned as a result of the use of the livestock protection collar. Each accident or injury~~
8 ~~to humans or domestic animals or poisoning of nontarget species shall be reported immediately~~
9 ~~to the department of agriculture.~~

10 Section 56. That ARSD 12:56:16:02 be repealed.

11 ~~—12:56:16:02. Availability of records to the department. Each applicator shall have all~~
12 ~~pesticide application records on the use of livestock protection collars completed and available~~
13 ~~to the department for inspection at the close of each day.~~

14 Section 57. That ARSD 12:56:16:03 be repealed.

15 ~~—12:56:16:03. Records to be kept for three years. Records containing the information~~
16 ~~required by § 12:56:16:01 shall be kept by the applicator for three years from the date of~~
17 ~~application or until return of the livestock protection collar to the livestock protection collar~~
18 ~~pool manager, whichever is later. The applicator shall furnish the department with a copy of~~
19 ~~these records upon written request.~~

20 Section 58. That ARSD 12:80:05:01 be repealed.

21 ~~—12:80:05:01. Nomination of council member. The nomination for council members must~~
22 ~~be on a form provided by the council. Nomination petitions must be filed with the council not~~
23 ~~later than 5:00 PM on the third Friday of January. If a petition is mailed to the council office by~~
24 ~~registered mail by 5:00 PM on the filing date it is considered filed.~~

1 Section 59. That ARSD 12:80:05:02 to 12:80:05:11, inclusive, be repealed.