

**TITLE 20**

**~~PUBLIC UTILITIES COMMISSION~~**

**Article**

20:10 — Public Utilities Commission.

**ARTICLE 20:10**

**~~PUBLIC UTILITIES COMMISSION~~**

**Chapter**

20:10:01 — General rules of practice.

20:10:13 — Public utilities rate filing rules.

20:10:21 — Energy facility plans.

20:10:22 — Energy facility siting rules.

20:10:32 — Local exchange service competition.

20:10:35 — Telecommunications services.

20:10:37 — Pipeline safety rules.

20:10:39 — Stray electrical current and voltage remediation rules.

**CHAPTER 20:10:01**

**GENERAL RULES OF PRACTICE**

**Section**

20:10:01:01 — Sessions of commission.

20:10:01:01.01 — Definitions.

20:10:01:01.02 — Use of rules of civil procedure.

**Commented [JG1]:** Form - No need to include the Title or Article index. You include the index of the chapter listing the sections because it depicts a section catchline that is to be changed by the proposed revision. *Drafting Manual* at 9 ("Any change in the title of the article or chapter, ... must also be included in the set." See also *id.* at 20 (example).

20:10:01:02	Appearances.
20:10:01:02.01	Communications with commissioners.
20:10:01:02.02	Filing documents with the commission.
20:10:01:02.03	Contents and filing of pleadings.
20:10:01:02.04	Withdrawal and dismissal of pleading prior to final order.
20:10:01:02.05	Filing of documents.
20:10:01:03 to 20:10:01:07	Repealed.
20:10:01:07.01	Contents of consumer complaint.
20:10:01:08	Repealed.
20:10:01:08.01	Commission action on consumer complaints.
20:10:01:08.02	Complaints not in conformity.
20:10:01:09	Service of a consumer complaint -- Service of other complaints.
20:10:01:09.01	Service of documents by the commission.
20:10:01:10	Actions which satisfy complaint.
20:10:01:11	Repealed.
20:10:01:11.01	Defenses to complaint.
20:10:01:12	Applications for new rates.
20:10:01:13	Repealed.
20:10:01:14	Adjournment and extensions.
20:10:01:15	Opportunity for hearing.
20:10:01:15.01	Burden in contested case proceeding.
20:10:01:15.02	Intervention.
20:10:01:15.03	Contents of petition to intervene.
20:10:01:15.04	Answer to petition to intervene.
20:10:01:15.05	Commission action on petition to intervene.

20:10:01:15.06 Individual's right to appear.  
20:10:01:16 Amendments.  
20:10:01:16.01 Response to amended pleadings.  
20:10:01:17 Subpoenas.  
20:10:01:17.01 Commission action on subpoena request.  
20:10:01:17.02 Service of subpoena.  
20:10:01:18 Repealed.  
20:10:01:19 Stipulation.  
20:10:01:20 to 20:10:01:22 Repealed.  
20:10:01:22.01 Discovery -- Order to compel.  
20:10:01:22.02 Notice of hearing.  
20:10:01:22.03 Manner of service.  
20:10:01:22.04 Change in time and place of hearing.  
20:10:01:22.05 Hearing -- Opening statement.  
20:10:01:22.06 Written testimony.  
20:10:01:22.07 Exhibits at hearing.  
20:10:01:23 Documentary evidence.  
20:10:01:24 Procedure for filing documentary evidence.  
20:10:01:24.01 Technical matter must be in exhibits.  
20:10:01:24.02 Receipt of evidence.  
20:10:01:24.03 Documentary exhibits furnished after close of hearing.  
20:10:01:25 Briefs.  
20:10:01:26 and 20:10:01:27 Repealed.  
20:10:01:27.01 Reopening of the record.  
20:10:01:28 Compliance with orders.

20:10:01:29	Rehearing or reconsideration.
20:10:01:30	Repealed.
20:10:01:30.01	Application for rehearing or reconsideration.
20:10:01:30.02	Answer to application for rehearing or reconsideration.
20:10:01:31	Repealed.
20:10:01:32	Information provided by commission.
20:10:01:33	Repealed.
20:10:01:34	Petition for declaratory ruling.
20:10:01:35	Commission action on petition.
20:10:01:36 and 20:10:01:37	Superseded.
20:10:01:38	Repealed.
20:10:01:39	Confidential information defined.
20:10:01:40	Confidential treatment of information.
20:10:01:41	Requests for confidential treatment of information <u>by a submitting party</u> .
<u>20:10:01:41.1.</u>	<u>Requests for confidential treatment of information by a non-submitting party.</u>
20:10:01:42	Requirements for proving confidentiality.
20:10:01:43	Requests for access to confidential information.
20:10:01:44	Use of confidential information in commission orders.
20:10:01:45	Order to show cause -- Service, notice, contents.

**CHAPTER 20:10:01**

**GENERAL RULES OF PRACTICE**

**Section**

20:10:01:41	Requests for confidential treatment of information <u>by a submitting party</u> .
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**Commented [JG2]:** You should insert the entirety of the index for Chapter 20:10:01 here, not just the sections being revised, and certainly not additional sections that do not fall under Chapter 20:10:01. See *Drafting Manual* at 9, 20.

**Commented [JG3]:** Form—No period after the section number in the index. Make the indent between the section number and catchline of such length that all entries are consistently justified/spaced. See *Drafting Manual*, pgs. 17-18.

~~20:10:01:41.1. Requests for confidential treatment of information by a non-submitting party.~~

- 20:10:13:17 Thirty days notice to public.
- 20:10:13:19 Utility shall give individual notice of proposed changes.
- 20:10:21:04 Existing energy conversion facilities.
- 20:10:21:22 Places of filing.

**CHAPTER 20:10:22**  
**ENERGY FACILITY SITING RULES**

Section

- 20:10:22:01 Definitions.
- 20:10:22:02 Content of notification of intent.
- 20:10:22:03 Prefiling conference.
- 20:10:22:04 General format of application for permit.
- 20:10:22:05 Application contents.
- 20:10:22:06 Names of participants required.
- 20:10:22:07 Name of owner and manager.
- 20:10:22:08 Purpose of facility.
- 20:10:22:09 Estimated cost of facility.
- 20:10:22:10 Demand for facility.
- 20:10:22:11 General site description.
- 20:10:22:12 Alternative sites.
- 20:10:22:13 Environmental information.
- 20:10:22:14 Effect on physical environment.
- 20:10:22:15 Hydrology.

20:10:22:16	Effect on terrestrial ecosystems.
20:10:22:17	Effect on aquatic ecosystems.
20:10:22:18	Land use.
20:10:22:19	Local land use controls.
20:10:22:20	Water quality.
20:10:22:21	Air quality.
20:10:22:22	Time schedule.
20:10:22:23	Community impact.
20:10:22:24	Employment estimates.
20:10:22:25	Future additions and modifications.
20:10:22:26	Nature of proposed energy conversion facility.
20:10:22:27	Products to be produced.
20:10:22:28	Fuel type used.
20:10:22:29	Proposed primary and secondary fuel sources and transportation.
20:10:22:30	Alternate energy resources.
20:10:22:31	Solid or radioactive waste.
20:10:22:32	Estimate of expected efficiency.
20:10:22:33	Decommissioning.
20:10:22:33.01	Decommissioning of wind energy facilities <u>and solar energy facilities</u> -- Funding for removal of facilities.
20:10:22:33.02	Information concerning wind energy facilities <u>and solar energy facilities</u> .
20:10:22:34	Transmission facility layout and construction.
20:10:22:35	Information concerning transmission facilities.
20:10:22:36	Additional information in application.

20:10:22:37 Statement required describing gas or liquid transmission line standards of construction.

20:10:22:38 Gas or liquid transmission line description.

20:10:22:39 Testimony and exhibits.

20:10:22:40 Application for party status.

~~20:10:22:01. Definitions.~~

~~20:10:22:05. Application contents.~~

~~20:10:22:33.01. Decommissioning of wind energy facilities and solar energy facilities—  
Funding for removal of facilities.~~

~~20:10:22:33.02. Information concerning wind energy facilities and solar energy facilities.~~

20:10:32:54 Certification requirements.

20:10:35:08 Telephone solicitors shall pay an annual fee.

20:10:37:10 Pipeline operator's incident reporting requirements.

20:10:37:17 Change of ownership.

20:10:37:18 Notice requirements for transmission line construction.

20:10:37:19 Annual report.

20:10:39:07 Qualified testing professional.

20:10:39:08 Qualified testing analyst.

**20:10:01:41. Requests for confidential treatment of information by a submitting party.** A request by a submitting party for confidential treatment of information shall be made by submitting the material to the commission along with the following information:

(1) An identification of the document and the general subject matter of the materials or the portions of the document for which confidentiality is being requested;

(2) The length of time for which confidentiality is being requested and a request for handling at the end of that time. This does not preclude a later request to extend the period of confidential treatment;

(3) The name, address, and phone number of a person to be contacted regarding the confidentiality request;

(4) The statutory or common law grounds and any administrative rules under which confidentiality is requested. Failure to include all possible grounds for confidential treatment does not preclude the party from raising additional grounds in the future; and

(5) The factual basis that qualifies the information for confidentiality under the authority cited.

Information shall be sent to the commission's executive director, unless another person is designated. Each page must clearly be marked "confidential" in large, bold letters. Information submitted by mail or hand delivery must be in a separate, sealed envelope and clearly state in large, bold letters on the envelope that confidential treatment is requested. If filed electronically, the information must be filed as a separate document.

**Source:** 16 SDR 148, effective March 22, 1990; 33 SDR 107, effective December 26, 2006.

**General Authority:** SDCL 49-1-11(6).

**Law Implemented:** SDCL 49-1-9, 49-1-11(6).

**20:10:01:41.1. Requests for confidential treatment of information by a non-submitting party. A request by a non-submitting party for confidential treatment of information shall be made by submitting the request to the commission along with the following information:**

(1) An identification of the document and the general subject matter of the materials or the portions of the document for which confidentiality is being requested;

(2) The length of time for which confidentiality is being requested and a request for handling at the end of that time. This does not preclude a later request to extend the period of confidential treatment;

(3) The name, address, and phone number of a person to be contacted regarding the confidentiality request;

(4) The statutory or common law grounds and any administrative rules under which confidentiality is requested. Failure to include all possible grounds for confidential treatment does not preclude the party from raising additional grounds in the future; and

(5) The factual basis that qualifies the information for confidentiality under the authority cited.

**Commented [JG4]:** Legality - As mentioned before, you should attempt to find the "policy guard rails" (law implemented) in a statute other than the statute providing general authority, unless the general authority statute expounds beyond just the scope of rulemaking authority.

In this case, I am not sure that subdivision 6 meets this threshold. It might be safer to also include SDCL 49-1-9 to the listing, as that statute indicates that the PUC is authorized to "conduct its proceedings . . . in such manner and places as will best conduce to the proper dispatch of business and to the ends of justice."



**Source:**

**General Authority:** SDCL 49-1-11(6).

**Law Implemented:** SDCL 49-1-9, 49-1-11(6).

**Commented [JG5]:** Legality - Same issue as above.

**20:10:13:17. Thirty days notice to public.** Notice to the public of a change of rates and charges or of rules shall be given by the utility by posting as prescribed in § 20:10:13:18 or by individual notice as prescribed in § 20:10:13:19. Notice to small qualifying facilities, as defined under 18 C.F.R. § 292.101, as amended to January 1, 2021, with a design capacity of 100 KW or less, of a change of rates and charges shall be given by the utility through individual notice as prescribed in § 20:10:13:19.

**Commented [dHA6]:** Discussed and considered at public hearing.

**Source:** 2 SDR 12, effective August 19, 1975; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-34A-4.

**Law Implemented:** SDCL 49-34A-4, 49-34A-10, 49-34A-12.

**Commented [JG7]:** Style, Form, Clarity, and Legality --

Be sure to note all proposed new language (underlined and in red). This appears to be new language.

Commas should be used instead of parentheses. Drafting Manual, pg. 7 ("Commas should be used instead of parentheses to set apart phrases, clauses, or other expressions.").

When incorporating by reference other states' law, or federal law, you should give a date certain for the reference. Id. at 4.

Please use the section symbol "\$" instead of section in the CFR cite.

Cite the precise provision in the CFR that defines the phrase "small qualifying facility." I could not find that precise term defined in 18 C.F.R. Part 292.

**20:10:13:19. Utility shall give individual notice of proposed changes.** When required by the commission, a typewritten or printed notice of the proposed rates or rules shall be mailed sent by the utility to each affected customer with the first bill for service under the proposed rate after the proposed rate is filed with the commission. If the utility does not mail bills to its customers, notice of the proposed rates or regulations may be required by the giving of notice in a newspaper, magazine or other publication of the utility. The notice shall indicate that more specific information may be obtained at the office of the utility.

**Source:** 2 SDR 12, effective August 19, 1975; 12 SDR 86, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-34A-4.

**Law Implemented:** SDCL 49-34A-4, 49-34A-10, 49-34A-12.

**20:10:21:04. Existing energy conversion facilities.** For existing energy conversion facilities which are facilities where electricity is being generated, that are owned or operated by the utility to serve South Dakota load, the utility shall provide information as follows:

- (1) Location;

(2) Type and nameplate capacity;

(3) Net capacity and annual production in megawatt hours for each of the past two calendar years;

(4) Water source and actual annual use and consumption in acre feet for each of the past two calendar years;

(5) Fuel type and source and annual consumption of fuel for each of the past two calendar years;

(6) Projected date of removal from service and the reason for removal; and

(7) Decommissioning plans for any facility expected by the facility owner to be retired in the next ten years.

**Source:** 4 SDR 7, effective November 13, 1977; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-41B-35.

**Law Implemented:** SDCL 49-41B-3(1), 49-41B-3(4).

**20:10:21:22. Places of filing.** ~~Ten copies of each~~ The plan shall be electronically filed with the commission. A copy of each plan shall also be filed by the utility with the county auditor of each county designated by the commission within 15 days after the commission has made the designation.

**Source:** 4 SDR 7, effective November 13, 1977; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-41B-35.

**Law Implemented:** SDCL 49-41B-3, 49-41B-35.

**20:10:22:01. Definitions.** Terms defined in SDCL 49-41B-2 have the same meaning in this chapter. Other terms in this chapter mean:

(1) "Affected area," that area which may be affected environmentally, socially, or economically by the location of a facility at a proposed site;

**Commented [JG8]:** Style--When you are adding a new subdivision, be sure to carry the same semicolon and conjunction convention to the next subdivision.

**Commented [JG9]:** Clarity--Who expects?

**Commented [dHA10]:** Discussed and considered at public hearing.

**Commented [JG11]:** Form - Please indicate new content in underlined red font.

(2) "Applicant," a person or persons who apply for a permit to construct a facility in the state of South Dakota under SDCL 49-41B. For projects with more than one participant, the person or persons designated by and acting on behalf of the participants;

(3) "Application," an application for a permit submitted to the commission pursuant to SDCL 49-41B;

(4) "Plant site," the site of and that area immediately adjacent to a proposed energy conversion facility and to those associated facilities to be constructed in conjunction with the proposed energy conversion facility;

(5) "Transmission site," that affected area on either side of and adjacent to a proposed transmission facility or associated facility;

(6) "Wind energy site," the site of and the area immediately adjacent to a proposed wind energy facility and any associated facilities;

(7) "Solar energy site," the site of, and the area immediately adjacent to, a proposed solar energy facility and any associated facilities.

**Source:** 5 SDR 1, effective July 25, 1978; 7 SDR 41, effective November 3, 1980; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 32 SDR 109, effective December 26, 2005.

**General Authority:** SDCL 49-41B-35(2).

**Law Implemented:** SDCL 49-41B-1, 49-41B-35(2).

**20:10:22:05. Application contents.** The application for a permit for a facility shall contain the applicable information specified in §§ 20:10:22:06 to 20:10:22:25, inclusive, 20:10:22:36, and 20:10:22:39. If the application is for a permit for an energy conversion facility, it shall also contain the information specified in §§ 20:10:22:26 to 20:10:22:33, inclusive. If the application is for a permit for a transmission facility as defined in SDCL subdivision 49-41B-2.1(1), it shall also contain the information in §§ 20:10:22:34 and 20:10:22:35. If the application is for a permit for a transmission facility as defined in SDCL subdivision 49-41B-2.1(2), it shall also contain the information in §§ 20:10:22:37 and 20:10:22:38. If the application is for a permit for a wind energy facility or a solar energy facility, it shall also contain the information in §§ 20:10:22:33.01 and 20:10:22:33.02.

The application for a permit for a facility shall contain a list of each permit that is known to be required from any other governmental entity at the time of the filing. The list of permits shall be updated, if needed, to include any permit the applicant becomes aware of after filing the application. The list shall state when each permit application will be filed. The application shall also list each notification that is required to be made to any other governmental entity.

**Commented [JG12]:** **Style/Clarity** - Recommend use of bracketing commas whenever the phrase bracketed is five or more words.

**Commented [JG13]:** **Legality** - This provision merely restates the general authority to make rules on this particular topic. Is there any policy guides elsewhere in statute (it appears that a number of provisions in chapter 49-41B are candidates for this) that justify this rule?

As the definition section of a long chapter, look to a statutory section that generally prescribes permitting for energy facilities. SDCL 49-41B-1 is a good candidate in that respect.

**Source:** 5 SDR 1, effective July 25, 1978; 7 SDR 41, effective November 3, 1980; 12 SDR 86, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 32 SDR 109, effective December 26, 2005; 38 SDR 116, effective January 10, 2012.

**General Authority:** SDCL 49-41B-35(2).

**Law Implemented:** SDCL 49-41B-11, 49-41B-35(2).

**20:10:22:33.01. Decommissioning of wind energy facilities and solar energy facilities – Funding for removal of facilities.** The applicant shall provide a plan regarding the action to be taken upon the decommissioning and removal of the wind energy facilities and solar energy facilities. Estimates of monetary costs and the site condition after decommissioning shall be included in the plan. The commission may require a bond, guarantee, insurance, or other requirement to provide funding for the decommissioning and removal of a wind energy facility and solar energy facility. The commission shall consider the size of the facility, the location of the facility, and the financial condition of the applicant when determining whether to require some type of funding. The same criteria shall be used to determine the amount of any required funding.

**Source:** 32 SDR 109, effective December 26, 2005.

**General Authority:** SDCL 49-41B-35(3).

**Law Implemented:** SDCL 49-41B-1, 49-41B-39, 49-41B-35(3).

**20:10:22:33.02. Information concerning wind energy facilities and solar energy facilities.** If a wind energy facility or solar energy facility is proposed, the applicant shall provide the following information:

(1) Configuration of the wind turbines—including the distance measured from ground level to the blade extended at its highest point, distance between the wind turbines, type of material, and color—or configuration of the solar panels;

(2) The number of wind turbines or solar panels, including the number of anticipated additions of wind turbines or solar panels in each of the next five years;

(3) Any warning lighting requirements for the wind turbines or solar panels;

(4) Setback distances from off-site buildings, rights-of-way of public roads, and property lines;

**Commented [JG14]:** Style/Clarity - Recommend not using a range of subdivisions, particularly when the section is comprised of all the subdivisions referenced.

**Commented [JG15]:** Form - Changing the catchline requires that the chapter index for ARSD ch. 20:10:22 be listed (and edited) in this packet before the first section of ARSD ch. 20:10:22 is listed and edited. This would mean inserting the index on page 5. See *Drafting Manual*, pgs. 9, 20.

**Commented [JG16]:** Legality - Same issue regarding using the general authority to propound rule as the policy guard rail (law implemented) for the rule. SDCL 49-41B-39 appears to go into great detail on the decommissioning of wind turbines. But SDCL 49-41B-1 again provides broad policy guard rails, also.

**Commented [JG17]:** Form - Again, changing the catchline in an index inserted on pg. 5 of this packet per the *Drafting Manual*.

**Commented [JG18]:** Clarity—Is there specific information that the applicant must provide on the configuration of the solar panels, as with the configuration of wind turbines? If so, would recommend making the following change to the proposed language:

- (1) Configuration of:
- A. For wind turbines, the distance measured from ground level to the blade extended at its highest point, distance between the wind turbines, type of material, and color; or
  - B. For solar panels, the [insert qualities the applicant must provide]

**Commented [dHA19]:** Discussed and considered at public hearing.

**Commented [dHA20]:** 2019 and discussed and considered at public hearing

**Commented [JG21]:** Style/Legality - I believe the correct term is "rights-of-way."

(5) Anticipated noise levels at the exterior of the nearest occupied residence during construction and operation;

Commented [dHA22]: 2019

(6) Anticipated electromagnetic interference during operation of the facilities;

(7) The proposed wind energy site or solar energy site and major alternatives alternative site locations as depicted on overhead photographs and land use culture maps;

Commented [dHA23]: 2019

(8) Reliability and safety;

(9) Right-of-way or condemnation requirements;

(10) Necessary clearing activities;

(11) Configuration of towers and poles for any electric interconnection facilities, including material, overall height, and width;

(12) Conductor configuration and size, length of span between structures, and number of circuits per pole or tower for any electric interconnection facilities; and

(13) If any electric interconnection facilities underground collection facilities are placed underground, the depth of burial, distance between access points, conductor configuration and size, and number of circuits.

Commented [dHA24]: 2019

**Source:** 32 SDR 109, effective December 26, 2005.

**General Authority:** SDCL 49-41B-35(2).

**Law Implemented:** SDCL 49-41B-11 ~~(2)(11)~~;

Commented [JG25]: **Clarity/Legality** - Recommend striking the subdivisions because other subdivisions in § 49-41B-11 appear to also apply to this rulemaking, not just subdivisions 2 and 11.

**20:10:32:54. Certification requirements.** In its annual certification filing, each eligible telecommunications carrier shall provide the following information, on a calendar year basis, to the commission:

(1) A two-year service quality improvement plan as described in § 20:10:32:43.02;

(2) A progress report on its previously filed two-year service quality improvement plan, including either a clear description of and/or maps detailing its progress towards meeting its plan targets, an explanation of how much universal service support was received and how it was used to improve service quality, signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled. The information information concerning completed or planned network improvement projects should indicate which wire center areas or local communities are benefited by the improvements; shall be submitted at the wire center level;

Commented [dHA26]: 2019

Commented [dHA27]: 2019

(3) Detailed information on any outage, as that term is defined in 47 C.F.R. § 4.5 (January 1, 2006), of at least 30 minutes in duration for each service area in which an eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes if the outage affected at least ten percent of the end users served in a designated service area, or a 911 special facility, as defined in 47 C.F.R. § 4.5(e) (January 1, 2006). Information on the outage must include:

- (aA) The date and time of onset of the outage;
- (bB) A brief description of the outage and its resolution;
- (cC) The particular services affected;
- (dD) The geographic areas affected by the outage;
- (eE) The steps taken to prevent a similar situation in the future; and
- (fF) The number of customers affected;

(4) The number of requests for service from potential customers within the eligible telecommunications carrier's service areas that were unfulfilled during the past year. The carrier shall also detail how it attempted to provide service to those potential customers, as set forth in § 20:10:32:43.01;

(5) The number of complaints the eligible telecommunications carrier's complaint department has received from consumers for the previous calendar year;

(6) Certification that it is complying with applicable service quality standards and consumer protection rules; and

(7) Certification that the eligible telecommunications carrier is able to function in emergency situations as set forth in § 20:10:32:43.03; and

~~(8) Certification that the eligible telecommunications carrier is offering a local usage plan comparable to that offered by the incumbent local exchange carrier in the relevant service areas; and~~

~~(9) Certification that the eligible telecommunications carrier acknowledges that it will be able to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.~~

**Source:** 32 SDR 231, effective July 10, 2006; 34 SDR 67, effective September 11, 2007.

**General Authority:** SDCL 49-31-76, 49-31-77, 49-31-81.

**Law Implemented:** SDCL 49-31-3, 49-31-78.

**Commented [JG28]:** Form - This level of subdivision uses the capital letter. See *Drafting Manual*, pg. 8. In that way, the ARSD differs from the SDCL.

**Commented [JG29]:** Form -- Recommend that this period be retained and become the final period. See *Drafting Manual*, pg. 49 (example shown by Section 3 on the page). This is for our drafting purposes.

**Commented [JG30]:** FYI-- IMHO, SDCL 49-31-76 is a good example of a section that provides general rulemaking and law implemented authority.

**20:10:35:08. Telephone solicitors shall pay an annual fee.** Each telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers shall pay an annual fee to the commission and provide all necessary documentation as required by the commission pursuant to § 20:10:35:10. The annual fee is:

- (1) Any company employing 5 or less employees or agents ~~as defined in SDCL 58-30-1:~~  
\$0.00;
- (2) Any company employing 6 to 49 employees or agents ~~as defined in SDCL 58-30-1:~~  
\$50.00;
- (3) Any company employing 50 to 100 employees or agents ~~as defined in SDCL 58-30-1:~~  
\$100.00;
- (4) Any company employing 101 to 249 employees or agents ~~as defined in SDCL 58-30-1:~~  
\$200.00;
- (5) Any company employing 250 to 499 employees or agents ~~as defined in SDCL 58-30-1:~~  
\$300.00;
- (6) Any company employing 500 to 999 employees or agents ~~as defined in SDCL 58-30-1:~~  
\$400.00;
- (7) Any company employing over 1,000 employees or agents ~~as defined in SDCL 58-30-1:~~  
\$500.00.

The annual fee is valid for one calendar year beginning October 1. The fee shall be renewed annually by October 1 of each subsequent year.

**Source:** 30 SDR 25, effective August 28, 2003.

**General Authority:** 49-31-99.

**Law Implemented:** 49-31-99, 49-31-105.

**20:10:37:10. Pipeline operator's incident reporting requirements.** As soon as reasonably possible, but no later than one hour, following confirmed discovery as found in the Code of Federal Regulations, Title 49, Part 191 as of July 1, 2021, of an incident, the pipeline operator shall notify the commission by phone of any incident on the pipeline system owned or operated by the pipeline operator. The notification shall include the identity of the pipeline operator, the time and location of the incident, whether there are ascertainable fatalities, personal injuries requiring inpatient hospitalization, or property damage, or both, and any other significant facts

**Commented [JG31]:** Style - Please remove the extra space here. It also exists with all of the other subdivisions.

**Commented [dHA32]:** Discussed and considered at public hearing.

and public dangers relevant to the incident. This reporting requirement does not relieve the pipeline operator of the federal reporting requirements as found in the Code of Federal Regulations, Title 49, Part 191 as of July 1, ~~2009~~ 2021. This reporting requirement requires personal notification to an inspector. Inspector contact information shall be provided by the commission.

**Source:** 36 SDR 57, effective October 19, 2009.

**General Authority:** SDCL 49-34B-4, 49-34B-19.

**Law Implemented:** SDCL 49-34B-3, 49-34B-4, 49-34B-5 49-34B-7, 49-34B-19, 49-34B-27.

**20:10:37:17. Change of ownership.** Each pipeline operator, upon finalization of an agreement to purchase or sell a jurisdictional gas pipeline facility subject to the provisions of the Code of Federal Regulations, Title 49, Part 192 as of July 1, ~~2009~~ 2021, must, within 30 business days, submit to the commission's pipeline safety program a written notification of this agreement. This rule does not apply to any transaction made pursuant to SDCL 49-34A-35.

**Source:** 36 SDR 57, effective October 19, 2009.

**General Authority:** SDCL 49-34B-4, 49-34B-19.

**Law Implemented:** SDCL 49-34B-3, 49-34B-4, 49-34B-19, 49-34B-27.

**20:10:37:18. Notice requirements for transmission line construction.** Each transmission pipeline operator within the jurisdiction of the pipeline safety program shall, prior to the construction of a new transmission line, or a relocation or replacement of a transmission line as defined in the Code of Federal Regulations, Title 49, Part 192 as of July 1, ~~2009~~ 2021:

(1) Submit the information below to the commission's pipeline safety program no later than 60 days prior to the commencement of construction, relocation, or replacement:

(aA) Pipeline operator's name and mailing address;

(bB) Estimated dates construction is scheduled to begin and end;

(cC) Map showing location and proposed route of pipeline;

(dD) Identified gas transmission Integrity Management Program high consequence area, if applicable;

**Commented [JG33]:** FYI--

IMHO, both of these statutes are examples of general authority statutes that double as law implemented statutes.

**Commented [JG34]:** FYI--

Generally, in long string cites such as this, we find at least one section that may have been improperly cited. I could not find a single problem section here.

**Commented [JG35]:** Form - This level of subdivision uses the capital letter. See *Drafting Manual*, pg. 8. In that way, the ARSD differs from the SDCL.



- (eE) Proposed steel pipeline specifications, including size, weight, grade, wall thickness, and coating;
  - (fE) Proposed plastic pipe specifications, including size and Standard Dimension Ratio;
  - (gG) Proposed design and maximum allowable operating pressure of pipeline;
  - (hH) Pressure test procedures and method of pressure test prior to operations;
  - (iI) Proposed type of cathodic protection;
  - (jJ) Minimum burial depths of pipeline at time of construction;
  - (kK) Proposed location and type of pipeline safety equipment;
  - (lL) Proposed type of highway and water crossing, such as whether it will be bored and cased, bored only, or trenched;
  - (mM) Written construction procedures;
  - (nN) Name of construction company if known at the time of filing the Notice; and
  - (oO) Pipeline operator's contact name and phone number;
- (2) In the event of an emergency, as defined in the pipeline operator's operations manual, give telephonic notice of emergency construction, relocation, or replacement to the commission's pipeline safety program;
- (3) Significant construction modifications shall be submitted to the pipeline safety program; and
- (4) Submit the information below to the commission's pipeline safety program no later than 60 days prior to the commencement of operation:
- (aA) Operation and maintenance manual;
  - (bB) Emergency procedures;
  - (cC) Anti-drug and alcohol plan;
  - (dD) Public Awareness plan;
  - (eE) Damage prevention program;
  - (fF) Abnormal operations; and
  - (gG) Operator's qualification plan.

**Commented [JG36]:** Form - This level of subdivision uses the capital letter. See [Drafting Manual](#), pg. 8. In that way, the ARSD differs from the SDCL.

**Source:** 36 SDR 57, effective October 19, 2009.

**General Authority:** SDCL 49-34B-4, 49-34B-19.

**Law Implemented:** SDCL 49-34B-3, 49-34B-4, 49-34B-8, 49-34B-19, 49-34B-27.

**20:10:37:19. Annual report.** ~~Except as provided below, each~~ Each pipeline operator shall submit to the commission a copy of its United States Department of Transportation Form RSPA F 7100.1-1 and/or Form RSPA F 7100.2-1 ~~which are completed to meet federal regulatory obligations.~~ A copy of the report shall be submitted by March 15 each year for the preceding calendar year.

~~The annual report is not required to be submitted for petroleum gas systems which serve fewer than 100 customers from a single source or master meter systems.~~

This reporting requirement does not relieve the operator of its federal reporting requirements as found in 49 C.F.R. §§ 191.11 and 191.17 as of July 1, ~~2009~~ 2021.

**Source:** 36 SDR 57, effective October 19, 2009.

**General Authority:** SDCL 49-34B-4, 49-34B-19.

**Law Implemented:** SDCL 49-34B-3, 49-34B-4, 49-34B-6, 49-34B-7, 49-34B-19, 49-34B-27.

**20:10:39:07. Qualified testing professional.** Measuring and testing for stray current or stray voltage shall be performed by a qualified testing professional. The following persons are presumed to be qualified testing professionals:

(1) A professional engineer, licensed in any state, who has completed no fewer than ~~48~~ 40 hours of commission-approved stray voltage training and who has been involved in no fewer than 5 prior investigations involving the measurement or testing of stray current or stray voltage;

(2) An electrician holding an electrical contractor's license, master electrician's license, or equivalent, in any state, who has completed no fewer than ~~48~~ 40 hours of commission-approved stray current or stray voltage training and who has been involved in no fewer than 5 prior investigations involving the measurement or testing of stray current or stray voltage; or

(3) A technician who, under the supervision of a person presumed qualified under subdivision 20:10:39:07(1) or (2), who has completed no fewer than 8 hours of commission-approved stray current or stray voltage training and has been involved in no fewer than 5 prior investigations involving the measurement or testing of stray current or stray voltage.

**Commented [JG37]:** Clarity - Should this phrase be struck? It appears unnecessary and confusing, unless it is conditioning the submission of the copy on whether the copy is "completed to meet federal regulatory obligations." If, however, the form by its nature is completed in order to meet federal regulatory obligations, then it would be redundant, wouldn't it?

**Commented [dHA38]:** 2019

The commission shall establish and update a list of commission-approved stray current and stray voltage training programs.

**Source:** 42 SDR 174, effective June 21, 2016.

**General Authority:** SDCL 49-47-2.

**Law Implemented:** SDCL 49-47-2, 49-47-3.

**20:10:39:08. Qualified testing analyst.** Analysis of data under this chapter shall be performed by a qualified testing analyst. A qualified testing analyst is a professional engineer, licensed in any state, who has completed no fewer than ~~48~~ 40 hours of stray current or stray voltage training, and who has been involved in no fewer than 5 prior investigations involving measurement or testing of stray current or stray voltage.

**Source:** 42 SDR 174, effective June 21, 2016.

**General Authority:** SDCL 49-47-2.

**Law Implemented:** SDCL 49-47-2, 49-47-3.