

# REGISTER



## South Dakota Legislative Research Council

Volume 35

Monday, 8:00 a.m., April 20, 2009

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

**Department of Health: Health Systems Development and Regulation:** (April 13, 2009) intends to adopt rules to establish guidelines of the statewide trauma system. The general authority for these rules, as cited by the division, is SDCL 34-12-53 and 34-12-54.

A public hearing will be held at the Health Lab Building, large conference room, 615 East Fourth Street, Pierre, South Dakota, on May 11, 2009, at 10:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Health, 600 East Capitol Avenue, Pierre, South Dakota 57501. Copies of the proposed rules may also be obtained at the Health Department website: <http://doh.sd.gov/News>. Material sent by mail must reach the department by May 21, 2009, 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) 773-3361 at least 48 hours before the hearing.

**Department of Education: Board of Education:** (April 13, 2009) intends to amend rules to clarify the addition of state fees being charged students at the state Technical Institutes, establish a higher amount of funding for facilities at the state technical institutes, and clarify the distribution and allocation of funds for each full time equivalent student. The general authority for these rules, as cited by the board, is SDCL 13-39-13, 13-39-19, 13-39-37,

and 13-39-38.

A public hearing will be held in Conference Room 101 of the Southeast Technical Institute Mickelson Center, Sioux Falls, South Dakota, on May 12, 2009, at 1:00 p.m. CDT. Copies of the proposed rules may be obtained without charge from the Department of Education, South Dakota Board of Education, 700 Governors Drive, Pierre, South Dakota 57501-2291 or from the Internet at <http://doe.sd.gov/secretary/board/>. Written comments may be sent to the board at the address above and must be received by May 8, 2009, 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) 773-3426 at least 48 hours before the hearing.

**Public Utilities Commission:** (April 14, 2009) intends to adopt rules regarding the interconnection of small generator facilities to the electric systems of public utilities. The general authority for these rules, as cited by the commission, is SDCL 49-34A-93.

A public hearing will be held in Room 413, 4<sup>th</sup> Floor, State Capitol, 500 East Capitol, Pierre, South Dakota, on May 6, 2009, at 9:30 a.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 57501-5070. Copies are also available at the commission's home page at <http://puc.sd.gov/dockets/rulemaking/2008/rm08-002.aspx>. Material sent by mail must be received by the Public Utilities Commission by

May 18, 2009, 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.

***Department of Social Services:*** (April 15, 2009) intends to amend rules to add definitions, remove sales tax on food refund eligibility for food stamp households, delete obsolete provisions relating to automatically eligible households, and amend the time frame to submit a quarterly report. The general authority for these rules, as cited by the department, is SDCL 28-1-72.

A public hearing will be held in Conference Room #2, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on May 12, 2009, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Laura Ringling, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Ringling may be contacted by telephone at (605) 773-3165. Written comments must be received by May 22, 2009, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the department at the time of the hearing. The testimony must relate directly to the changes being proposed and must cite the specific rule number to which the comments are being directed. 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) 773-3165 at least 48 hours before the hearing.

***Department of Social Services:*** (April 16, 2009) has filed rules relating to reimbursement for nursing facilities which will amend definitions; update internal references; clarify administrative hearing procedure; delete obsolete provisions; update internal references;

repeal rules that are either obsolete or no longer represent the Department's current reimbursement methodology; increase the ceiling for capital costs; establish a new rule that specifies the reimbursement methodology used if an existing facility experiences a change in operational ownership; and specify that the amount of a facility's add-on payment for the use of a specialty bed will be established in the Department's contract with the provider. The general authority for these rules, as cited by the department, is SDCL 28-6-1.

A public hearing will be held in Conference Room #2, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on May 13, 2009, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Laura Ringling, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Ringling may be contacted by telephone at (605) 773-3165. Written comments must be received by May 25, 2009, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the department at the time of the hearing. The testimony must relate directly to the changes being proposed and must cite the specific rule number to which the comments are being directed. 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) 773-3165 at least 48 hours before the hearing.

***Department of Game, Fish and Parks:*** (April 16, 2009) intends to amend a Uses of Parks and Public Lands rule to expand archery hunting opportunities on Farm Island Recreation Area and LaFramboise Island Nature Area; amend a Park Licenses rule to allow a person towing a vehicle to enter a state park without having to purchase a park entrance license (PEL) for the towed vehicle if it will not be operated within the park; amend a Motorboats

and Watercraft rule to require any child under seven years of age who is being towed by a watercraft to wear a personal flotation device; amend Archery Deer Hunting Season rules to establish season dates, number and types of available licenses, requirements and restrictions, open area, and shooting hours; remove the restrictions which pertain to archery deer hunting on Farm Island Recreation Area and LaFramboise Island Nature Area; allow purchase of one statewide "any antlerless deer" single-tag and single and double tag "any antlerless deer" licenses for all areas open to archery deer hunting excluding the Black Hills Fire Protection District and Codington, Grant, Roberts, Lake, Lincoln, Minnehaha and Moody counties in eastern South Dakota; amend an Archery Antelope Hunting Season rule to establish season dates, number and types of available licenses, requirements and restrictions, open area, and shooting hours; create an unlimited number of 3-tag licenses valid for one "any antelope" and two "any doe/fawn antelope"; and add Campbell County as an area open to archery antelope hunting; amend a Youth Deer Hunting Season rule to establish season dates, numbers of available single tag "any antlerless deer" licenses, requirements and restrictions, open areas, and shooting hours, and lower the total number of youth deer licenses that can be purchased from five (5) to two (2); amend a General Muzzleloading Deer Hunting Season rule to establish season dates, number of available "any deer" and "any antlerless deer" licenses, requirements and restrictions, open area, and shooting hours; allow purchase of one statewide "any antlerless deer" single-tag and single and double tag "any antlerless deer" licenses for all areas open to muzzleloader deer hunting excluding the Black Hills Fire Protection District and Codington, Grant, Roberts, Lake, Lincoln, Minnehaha, and Moody counties in eastern South Dakota. The general authority for these rules, as cited by the department, is SDCL 32-3A-1, 41-2-18, 41-2-38, 41-6-21, and 41-17-1.1.

A public hearing will be held at the Creekside Lodge located next to the State Game Lodge in Custer State Park, 13389 US Highway 16A, Custer, South Dakota, on May 6, 2009, at 2:00 p.m. (MDT). Copies of the proposed rules may be obtained from and written comments sent to Jeffrey R. Vonk, Secretary, Foss Building, 523 East Capitol Avenue, 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 e-mail to [chuck.schlueter@state.sd.us](mailto:chuck.schlueter@state.sd.us). All written and e-mail 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.

#### **FILINGS IN THE SECRETARY OF STATE'S OFFICE: (None)**

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**

4-20-2009	Revenue and Regulation: Division of Insurance	Amend rules to repeal duplicative authority and to define premium for premium tax reporting purposes; 35 SDR 227.
4-30-2009	Revenue and Regulation: Banking Commission	Amend rules to restructure the tiered fee schedule for the semiannual examination fee paid by state chartered banks, to implement additional supervision fees for banks in non-traditional business lines and banks operating under enforcement actions and to amend the additional examination fee provided, and to increase the initial license and renewal fees for entities licensed to lend money in South Dakota pursuant to chapter 54-4; 35 SDR 238
5-6-2009	Public Utilities Commission	Adopt rules regarding the interconnection of small generator facilities to the electric systems of public utilities; 35 SDR 243
5-6-2009	Revenue and Regulation: Division of Insurance	Adopt rules to establish a special state continuation election of continuation for individuals that were eligible prior to the enactment of the American Recovery and Reinvestment Act; 35 SDR 237
5-6-2009	Revenue and Regulation: Real Estate Commission	Amend rules to permit electronic filings of petitions for promulgation of declaratory ruling or rule, include a broker in the registration process for a business corporation or limited liability company, make provisions for commission splits paid out-of-country, prohibit the reproduction of a license, require nonresident licensees to provide certificates of licensure at time of application for licensure and when renewing a South Dakota license, require a South Dakota resident licensed as a salesperson by examination in another state to meet certain education and examination requirements, require a nonresident salesperson licensed in South Dakota who establishes residency in this state to meet certain education requirements, correct gender specific language, rename Course I, II and III and revise course content requirements, require an instructor seeking approval to offer prelicensing education to complete certain course work, allow electronic filing of a complaint and response to complaint, distinguish the type of license to be held when appraising real property, define postlicensing

		<p>education and establish requirements thereof, eliminate fees of certain prelicensing courses, require out-of-state courses to meet certain requirements, repeal the requirement of notice given to students at beginning of continuing education course, and prohibit independent study courses from qualifying for postlicensing education; 35 SDR 237</p>
<p>5-6-2009</p>	<p>Game, Fish and Parks</p>	<p>Amend a Uses of Parks and Public Lands rule to expand archery hunting opportunities on Farm Island Recreation Area and LaFramboise Island Nature Area; amend a Park Licenses rule to allow a person towing a vehicle to enter a state park without having to purchase a park entrance license (PEL) for the towed vehicle if it will not be operated within the park; amend a Motorboats and Watercraft rule to require any child under seven years of age who is being towed by a watercraft to wear a personal flotation device; amend Archery Deer Hunting Season rules to establish season dates, number and types of available licenses, requirements and restrictions, open area, and shooting hours; remove the restrictions which pertain to archery deer hunting on Farm Island Recreation Area and LaFramboise Island Nature Area; allow purchase of one statewide "any antlerless deer" single-tag and single and double tag "any antlerless deer" licenses for all areas open to archery deer hunting excluding the Black Hills Fire Protection District and Codington, Grant, Roberts, Lake, Lincoln, Minnehaha and Moody counties in eastern South Dakota; amend an Archery Antelope Hunting Season rule to establish season dates, number and types of available licenses, requirements and restrictions, open area, and shooting hours; create an unlimited number of 3-tag licenses valid for one "any antelope" and two "any doe/fawn antelope"; and add Campbell County as an area open to archery antelope hunting; amend a Youth Deer Hunting Season rule to establish season dates, numbers of available single tag "any antlerless deer" licenses, requirements and restrictions, open areas, and shooting hours, and lower the total number of youth deer licenses that can be purchased from five (5) to two (2); amend a</p>

		General Muzzleloading Deer Hunting Season rule to establish season dates, number of available "any deer" and "any antlerless deer" licenses, requirements and restrictions, open area, and shooting hours; allow purchase of one statewide "any antlerless deer" single-tag and single and double tag "any antlerless deer" licenses for all areas open to muzzleloader deer hunting excluding the Black Hills Fire Protection District and Codington, Grant, Roberts, Lake, Lincoln, Minnehaha, and Moody counties in eastern South Dakota; 35 SDR 244
5-7-2009	Revenue and Regulation: Division of Insurance	Amend a rule to change a reference to reflect the new lifetime benefit maximum amount of two million dollars; 35 SDR 237
5-7-2009	Secretary of State: Board of Elections	Amend rules to clarify the address which the voter registration address verification notice is mailed to and include information on how to handle the notice if that person is no longer residing at that address; amend language in the notice of election for special district formation to clarify when the trustee election will be held; amend the municipal election ballot to include a list of the types of municipal governing boards; amend the certificate of nomination to fill vacancy form to include the principal residence address of the candidate; amend the approval of automatic tabulating system requirements for certification; amend the instructions to absentee voters to include instructions to not return the absentee ballot to the polling place; amend the type of seal used for sealing a ballot box; require the use of paper seals on the ballot box; amend the certification by precinct election board to include certification language for election boards which use electronic pollbooks; remove the date of the election from the official stamp for ballots; modify absentee ballot envelopes; repeal color requirement for special district ballots; add ballot format for special district formation elections; add ballot for school district reorganization elections; add ballot format for sanitary district elections; add petition form for establishing or eliminating school board representation areas; add petition form for referring the discontinuance of an

		attendance center; and put security measures in place for the use of electronic pollbook; 35 SDR 233.
5-11-2009	Health: Health Systems Development and Regulation	Adopt rules to establish guidelines of the statewide trauma system; 35 SDR 243
5-12-2009	Education: Board of Education	Amend rules to clarify the addition of state fees being charged students at the state Technical Institutes, establish a higher amount of funding for facilities at the state technical institutes, and clarify the distribution and allocation of funds for each full time equivalent student; 35 SDR 243
5-12-2009	Social Services	Amend rules to add definitions, remove sales tax on food refund eligibility for food stamp households, delete obsolete provisions relating to automatically eligible households, and amend the time frame to submit a quarterly report; 35 SDR 244
5-13-2009	Social Services	Amend rules relating to reimbursement for nursing facilities which will amend definitions; update internal references; clarify administrative hearing procedure; delete obsolete provisions; update internal references; repeal rules that are either obsolete or no longer represent the Department's current reimbursement methodology; increase the ceiling for capital costs; establish a new rule that specifies the reimbursement methodology used if an existing facility experiences a change in operational ownership; and specify that the amount of a facility's add-on payment for the use of a specialty bed will be established in the Department's contract with the provider; 35 SDR 244

### RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, April 21, 2009, in Room 413, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2009 interim: May 12, June 9, July 28, September 1, October 6, November 18, and December 15.

**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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