

REGISTER



South Dakota Legislative Research Council

Volume 37

Monday, 8:00 a.m., April 25, 2011

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

Department of Labor and Regulation: Division of Insurance: (April 18, 2011) intends to amend rules to update the sources referenced in rule; incorporate the new 2011 Medicare deductibles and update the rules in accordance with federal regulations; updating cross references to SDCL 58-17C; add a trend test as a way to trigger the risk-based capital company action level for property and casualty insurers and update the sources referenced in rule. The general authority for these rules, as cited by the division, is SDCL 58-3-11, 58-3-26, 58-4-48, 58-6-75, 58-17-87, 58-17C-1, 58-17C-13, 58-17C-19, 58-17C-20, 58-17C-57, 58-17C-63, 58-17C-103, 58-17F-10, 58-17F-16, 58-17F-21, 58-17H-35, 58-17H-49, 58-17I-16, 58-18-42, 58-18-75, 58-18-79, 58-26-13.1, 58-26-46, 58-27-7, and 58-27-108.

A public hearing will be held in the Main Floor Conference Room, Anderson Building, Pierre, South Dakota, on May 12, 2011, at 10:00 a.m. Paper copies of the proposed rules may be obtained without charge from and written comments sent to the Division of Insurance, Administrative Rules, 445 E. Capitol Avenue, Pierre, South Dakota 57501-3185. Material sent by mail must reach the Division of Insurance by May 12, 2011, to be considered. The text of the proposed rules will be posted on the Division of Insurance's website at <http://www.sdjobs.org/reg/insurance/Legal/hearing.htm>. The rules may also be obtained as a Microsoft Word attachment by emailing melissa.klemann@state.sd.us. 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) 773-3563 at least 48 hours before the hearing.

Department of Social Services: Economic Assistance: (April 19, 2011) intends to amend Supplemental Nutrition Assistance Program rules to remove inapplicable provisions, remove obsolete references, and update terminology. The general authority for these rules, as cited by the department, is SDCL 28-12-1.

A public hearing will be held in Conference Room #1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on May 11, 2011, 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 23, 2011, 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. 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: Economic Assistance: (April 19, 2011) intends to amend Sales Tax on Food Refund Program rules to repeal inapplicable provisions, identify the annual enrollment period, clarify eligibility and benefit limits for former supplemental nutrition

assistance benefits recipients, and update terminology. 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 #1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on May 11, 2011, at 9:30 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 23, 2011, 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. 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: Child Care Services: (April 19, 2011) intends to amend Child Care Services rules to repeal obsolete rules, remove obsolete references, update terminology, add procedures for implementing and maintaining a waiting list, reduce the federal poverty level standard for determining eligibility, indicate that the department shall set reimbursement rates in the 75th percentile subject to the availability of funds, clarify provider eligibility criteria, update the timeframe in which a household may report a change in circumstances, update the circumstances under which the department may withhold payment from a provider, clarify certain individuals ineligible to receive child care assistance, and remove duplicative provisions. The general authority for these rules, as cited by the department, is SDCL 28-1-60, 28-1-61, and 28-1-62.

A public hearing will be held in Conference

Room #1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on May 13, 2011, 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 23, 2011, 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. 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.

Office of Attorney General: 24/7 Sobriety Program: (April 20, 2011) intends to amend rules to establish a definition of ignition interlock device, require the verification of installed ignition interlock devices by participating agencies, require the periodic inspection of those devices, establish standards for ignition interlock devices and permit the Attorney General to approve ignition interlock devices, clarify language regarding enrollment and placement of offenders on the 24/7 Sobriety Program, and establish fees within the range as established during the 2011 Legislative Session for twice-a-day PBT testing, urinalysis, drug testing, electronic alcohol monitoring testing, ignition interlock testing and participation fees. The general authority for these rules, as cited by the office, is SDCL 1-11-24.

A public hearing will be held at the George S. Mickelson Criminal Justice Center Commission Conference Room, 1302 East Highway 14, Pierre, South Dakota, on May 20, 2011, at 10:00 a.m. CST. A copy of the proposed rules may be obtained without charge from and written comments sent to the Office of Attorney General, 1302 E. Highway 14, Pierre, South Dakota 57501. Written comments will be

accepted for a period of ten days after the hearing. Persons who have special needs for which the office can make arrangements are asked to call (605) 773-3215 at least 48 hours before the hearing.

Bureau of Personnel: Career Service

Commission: (April 21, 2011) intends to amend rules to clarify that the definition of "immediate family" includes step-brothers and step-sisters; clarify that a "temporary employee" is not entitled to benefits or other status rights; set time limits on the length of time that an employee is designated as "severely disabled," for purposes of the disability preference used by the Bureau of Personnel when the appointing authority must interview an applicant; revise outdated terminology; clarify that falsifying a time sheet is grounds for disciplinary action even without specific intent; clarify the criteria used in a layoff, the approval process by the Bureau of Personnel, and repeals the rule allowing an appeal of a layoff; update the terminology relative to the accrual, and allowed use of vacation leave, sick leave, and personal leave; and clarify that an appointing authority is not required to give prior notice to an employee of a furlough. The general authority for these rules, as cited by the bureau, is SDCL 3-6-8.4, 3-6-10.1, 3-6-22, 3-6-24, 3-6A-21, 3-6A-28, 3-6A-29, and 3-6A-36.

A public hearing will be held in the BOP Training Room #B15, Becker-Hanson Building, Pierre South Dakota, on May 25, 2011, at 8:30 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Bureau of Personnel, Room 110, State Capitol, 500 E. Capitol, Pierre, South Dakota 57501-1234. Written comments must be received by May 25, 2011, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the bureau can make arrangements are asked to call (605) 773-4918 at least 48 hours before the hearing.

Bureau of Personnel: (April 21, 2011) intends to repeal rules governing the Governor's Senior Prescription Drug Program of 2003. The general authority for these rules, as cited by the bureau, is SDCL 3-12B-2.

A public hearing will be held in the BOP Conference Room #B31, Capitol Building, Basement, Pierre South Dakota, on May 26, 2011, at 10:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Bureau of Personnel, Room 110, State Capitol, 500 E. Capitol, Pierre, South Dakota 57501-1234. Written comments must be received by May 26, 2011, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the bureau can make arrangements are asked to call (605) 773-4918 at least 48 hours before the hearing.

Correction to Notice: Department of Health: Health Systems Development and Regulation: (April 12, 2011) – Material sent by mail must reach the department by May 9 19, 2011, to be considered. (37 SDR 191)

NOTICE:

The **Department of Social Services** is proposing to revise the South Dakota Medicaid State Plan effective April 27, 2011. The proposed changes describe the State-Tribal consultation process followed regarding amendments to the Medicaid State Plan. The change adds a narrative description to Section 1.4, page 9 which describes the process DSS will use to consult with the Tribes and Indian health organizations in development of State Plan Amendments. There is no projected fiscal impact associated with this amendment. Copies of the plan revisions are available at the Department of Social Services, Division of Medical Services. Written requests for a copy of these changes, and corresponding comments, may be sent to the Division 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:

Executive Appointments:

Yvon J. Burtz, Winner, was appointed on April 15, 2011, to the **Abstracters' Board of Examiners**, to replace Peggy Boysen, effective April 2, 2011, and shall continue until April 1, 2014.

Patricia Clark, Pierre, was reappointed on April 15, 2011, to the **Cosmetology Commission**, effective immediately and shall continue until April 14, 2014.

Daniel I. Hartman, Spearfish, was reappointed on April 15, 2011, to the **State Plumbing Commission**, effective immediately and shall continue until April 14, 2014.

Mark J. Rogers, Dell Rapids, was appointed on April 15, 2011, to the **State Plumbing Commission**, to replace Roger Simonsen, effective April 15, 2011, and shall continue until April 14, 2014.

Daniel G. Smith, Pierre, was reappointed on April 15, 2011, to the **State Plumbing Commission**, effective immediately and shall continue until April 14, 2014.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

4-28-2011	Transportation	Amend a speed zone in the town of Gregory in Gregory County on South Dakota Highway 47 to reduce the speed limits on a segment of highway; 37 SDR 181.
5-5-2011	Game, Fish and Parks	Amend a General Provisions rule to eliminate definitions for "mule buck any whitetail", "A' license", and "R' license", and establish definitions for "agricultural purposes", "operate", and "owner-operator"; and amend Application for License rules to provide consistency in language used to describe "landowner preference" licenses; clarify landowner preference license eligibility requirements and restrictions for landowners, tenants and employees; and clarify landowner preference license eligibility requirements and restrictions for persons who own an interest in legal entities which hold title to agricultural land (shareholders of corporations, members of limited liability companies, partners in a partnership, and trust beneficiaries); 37 SDR 191.

5-9-2011	Health: Division of Health Systems Development and Regulation	Amend rules to allow employing facilities and physicians with a J-1 Visa more flexibility in scheduling work hours, to have applications submitted by facilities in an order that follows the federal guidelines, and to allow applications and additional information to be sent between parties by other means as approved by the department; 37 SDR 191.
5-11-2011	Social Services: Economic Assistance	Amend Supplemental Nutrition Assistance Program rules to remove inapplicable provisions, remove obsolete references, and update terminology; 37 SDR 195.
5-11-2011	Social Services: Economic Assistance	Amend Sales Tax on Food Refund Program rules to repeal inapplicable provisions, identify the annual enrollment period, clarify eligibility and benefit limits for former supplemental nutrition assistance benefits recipients, and update terminology; 37 SDR 195.
5-12-2011	Health: SD Board of Funeral Service	Amend 20:45:03:02 to allow students who are currently enrolled in an accredited Mortuary Science Program perform the same duties as a trainee and amend 20:45:03:03 to require some coursework in each area but not specify the exact amount; 37 SDR 181.
5-12-2011	Labor and Regulation: Division of Insurance	Amend rules to update the sources referenced in rule; incorporate the new 2011 Medicare deductibles and update the rules in accordance with federal regulations; updating cross references to SDCL 58-17C; add a trend test as a way to trigger the risk-based capital company action level for property and casualty insurers and update the sources referenced in rule; 37 SDR 195.
5-13-2011	Social Services: Child Care Services	Amend Child Care Services rules to repeal obsolete rules, remove obsolete references, update terminology, add procedures for implementing and maintaining a waiting list, reduce the federal poverty level standard for determining eligibility, indicate that the department shall set reimbursement rates in the 75 th percentile subject to the availability of funds, clarify provider eligibility criteria, update the timeframe in which a household may report a change in circumstances, update the circumstances under which the department may withhold payment from a provider, clarify certain individuals ineligible to receive child care assistance, and remove duplicative

		provisions; 37 SDR 196.
5-16-2011	Education: Board of Education	Repeal rules to eliminate unnecessary language regarding school district general fund balances due to the repeal of statutes for excess general fund balance calculations; 37 SDR 187.
5-20-2011	Attorney General: 24/7 Sobriety Program	Amend rules to establish a definition of ignition interlock device, require the verification of installed ignition interlock devices by participating agencies, require the periodic inspection of those devices, establish standards for ignition interlock devices and permit the Attorney General to approve ignition interlock devices, clarify language regarding enrollment and placement of offenders on the 24/7 Sobriety Program, and establish fees within the range as established during the 2011 Legislative Session for twice-a-day PBT testing, urinalysis, drug testing, electronic alcohol monitoring testing, ignition interlock testing and participation fees; 37 SDR 196.
5-25-2011	Bureau of Personnel: Career Service Commission	Amend rules to clarify that the definition of "immediate family" includes step-brothers and step-sisters; clarify that a "temporary employee" is not entitled to benefits or other status rights; set time limits on the length of time that an employee is designated as "severely disabled," for purposes of the disability preference used by the Bureau of Personnel when the appointing authority must interview an applicant; revise outdated terminology; clarify that falsifying a time sheet is grounds for disciplinary action even without specific intent; clarify the criteria used in a layoff, the approval process by the Bureau of Personnel, and repeals the rule allowing an appeal of a layoff; update the terminology relative to the accrual, and allowed use of vacation leave, sick leave, and personal leave; and clarify that an appointing authority is not required to give prior notice to an employee of a furlough; 37 SDR 197.
5-26-2011	Bureau of Personnel	Repeal rules governing the Governor's Senior Prescription Drug Program of 2003; 37 SDR 197.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, May 10, 2011. The committee chair has set the following tentative meeting schedule for the 2011 interim: June 7, July 12, August 30, September 27, November 15, and December 12.

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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