

REGISTER



South Dakota Legislative Research Council

Volume 30

Monday, 8:00 a.m., April 26, 2004

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

Department of Health: South Dakota Funeral Services Board: (April 20, 2004) intends to amend rules that will update and modify the contested case hearing procedures and requirements; clarify certain definitions; broaden the prohibition against false listing and false advertising by limiting the use of the advertising phrase "locally owned and operated" to those funeral establishments that are owned and operated by an actual resident of the community in which the establishment is located, which requirement can be satisfied if the resident owns a 25% interest in a business organization that owns and operates the establishment; clarifying all funeral services contract requirements; adding circumstances under which an unembalmed body may be kept for a period greater than 24 hours; updating the traineeship procedures and requirements; updating the license application and examination process; impose costs and fees associated with certain inspections; insert a requirement as to when all crematories shall be opened for inspection; clarify refrigeration requirements; and delete redundant and outdated rules and statutory citations. The general authority for these rules, as cited by the board, is SDCL 34-26A-33, 36-19-9.

A public hearing will be held in Salon Rooms F, G, and H at the Rushmore Plaza Holiday Inn in Rapid City, South Dakota, on May 10, 2004, at 2:30 p.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Funeral Services Board, 135 East Illinois, Suite 214, Spearfish, SD 57783. Written comments must

reach the board by May 10, 2004, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the board can make arrangements are asked to call (605) 642-1600 at least 48 hours before the hearing.

Department of Environment and Natural Resources: Board of Minerals and Environment: (April 20, 2004) intends to amend rules to update existing hazardous waste rules by incorporating the federal rules by reference. This includes changes that have been made to the federal hazardous waste rules from July 1, 2002, to June 30, 2003. The state's rules will then be substantially the same as the federal regulations. Changes to the rules include: establishing criteria for the use of certain materials in the production of zinc fertilizers, the establishment of treatment standards prior to disposing of certain metal-containing wastes, and the correction of technical errors in previously promulgated rules. The general authority for these rules, as cited by the board, is SDCL 34A-11-8 and 34A-11-9.

A public hearing will be held at the Floyd Matthew Environmental Education and Training Center, 523 East Capitol Avenue, Pierre, South Dakota, on June 17, 2004, at 10:15 a.m. CDT. Copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Environment and Natural Resources, Waste Management Program, 523 East Capitol, Pierre, South Dakota 57701-3182. 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 Carrie Jacobson at (605) 773-3153 at least 48 hours before the hearing.

Department of Social Services: Office of Economic Assistance: (April 22, 2004) has filed rules to: increase the payment standards for TANF households and reduce the maximum period of ineligibility when an applicant refuses to accept employment or additional hours of employment, terminates employment, or reduces hours of employment without good cause within the 60 days preceding the date of application. The general authority for these rules, as cited by the department, is SDCL 28-7A-3, 28-7A-10, and 28-7A-11.

A public hearing will be held in Secretary Ellenbecker's Office, First Floor, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on Monday, May 17, 2004, at 1:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to Jill Wellhouse, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Wellhouse may be contacted by telephone at (605) 773-3305. Written comments must be received by May 27, 2004, 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) 773-3305 at least 48 hours before the hearing.

Department of Education: Board of Education: (April 23, 2004) intends to amend rules to: give the department the authority to grant endorsement level approval, rather than individual universities; allow students with a previous content specific major to take additional coursework in pedagogy to complete their education degrees and pass a content exam to verify their content knowledge; revise the rules so they are content standards based and

allow preparing institutions the flexibility to vary their courses to meet the content standards; and allow principals to obtain preschool-12 certification. The general authority for these rules, as cited by the board, is SDCL 13-1-12.1, 13-42-3, and 13-42-4.

A public hearing will be held at the Western Dakota Technical Institute Mickelson Building, 800 Mickelson Drive, Rapid City, South Dakota, on May 17, 2004, at 9:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Education, South Dakota Board of Education, 700 Governors Drive, Pierre, South Dakota 57501. Written comments must be received by May 17, 2004, 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.

NOTICE: The **South Dakota Lottery** is ending instant ticket game number 1204 - Three 3's. The last day that prizes will be paid for the game is October 12, 2004.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: BOARD OF WATER AND NATURAL RESOURCES:

74:05:08:01, 74:05:08:02, 74:05:08:14, 74:05:08:15, 74:05:08:17; 74:05:11:01, 74:05:11:02, 74:05:11:13, 74:05:11:15, and 74:05:11:16.

History-Notice: 30 SDR 139, March 8, 2004
 Hearing: March 25, 2004
 Filed: April 20, 2004
 Effective: May 10, 2004

**DEPARTMENT OF REVENUE AND
REGULATION: SOUTH DAKOTA
COMMISSION ON GAMING:**
20:18:16:15.09.

History-Notice: 30 SDR 129, Feb. 17, 2004
Hearing: March 17, 2004
Filed: April 20, 2004
Effective: May 10, 2004

**SECRETARY OF STATE: BOARD OF
ELECTIONS:** 5:02:03:01, 5:02:03:22;
5:02:04:04, 5:02:04:17; 5:02:05:02,
5:02:05:02.01, 5:02:05:02.02; 5:02:08:13,
5:02:08:39; 5:02:09:04.03, 5:02:09:16 to
5:02:09:21, inclusive; 5:02:16:25, 5:02:16:36,
5:02:16:42, 5:02:16:44; 5:02:17:01, and
5:02:17:12.

History-Notice: 30 SDR 139, March 8, 2004
Hearing: March 26, 2004
Filed: April 20, 2004
Effective: May 10, 2004

SOUTH DAKOTA BOARD OF REGENTS:
(Emergency) - 124:40:12:01 to 124:40:12:18,
inclusive.

History-Notice: 30 SDR 161, April 12, 2004
Hearing: N/A
Filed: April 21, 2004
Effective: April 21, 2004

**DEPARTMENT OF GAME, FISH AND
PARKS:** 41:07:03:02 and 41:07:03:03.

History-Notice: 30 SDR 129, Feb. 17, 2004
Hearing: March 4, 2004
Filed: April 21, 2004
Effective: May 11, 2004

**DEPARTMENT OF GAME, FISH AND
PARKS:** 41:03:03:08; 41:03:04:03;
41:06:08:01; 41:06:09:02; 41:06:11:01;
41:06:12:01; 41:06:22:01, 41:06:22:01.01,
41:06:22:02, 41:06:22:05; 41:06:24:02;
41:06:26:02; 41:06:30:02; 41:06:40:01;
41:06:41:02; 41:06:43:02; 41:06:45:02,

41:06:45:04; 41:06:47:02, 41:06:47:06;
41:06:56:03; 41:06:59:02; and 41:09:13:14.

History-Notice: 30 SDR 143, March 15, 2004
Hearing: April 1-2, 2004
Filed: April 21, 2004
Effective: May 11, 2004

DEPARTMENT OF TRANSPORTATION:
70:01:02:55 and 70:01:03:24.

History-Notice: 30 SDR 105, Dec. 22, 2003
Hearing: January 22, 2004
Filed: April 21, 2004
Effective: May 11, 2004

DEPARTMENT OF TRANSPORTATION:
70:01:02:03, 70:01:02:05, 70:01:02:23,
70:01:02:44, and 70:01:02:55.

History-Notice: 30 SDR 125, Feb. 9, 2004
Hearing: February 26, 2004
Filed: April 21, 2004
Effective: May 11, 2004

DEPARTMENT OF TRANSPORTATION:
70:04:06:03, 70:04:06:05, 70:04:06:06,
70:04:06:10, and 70:04:06:11.

History-Notice: 30 SDR 125, Feb. 9, 2004
Hearing: February 26, 2004
Filed: April 21, 2004
Effective: May 11, 2004

DEPARTMENT OF TRANSPORTATION:
70:01:02:43; 70:03:01:111, 70:03:01:112; and
70:04:07:03.

History-Notice: 30 SDR 139, March 8, 2004
Hearing: March 25, 2004
Filed: April 21, 2004
Effective: May 11, 2004

**BUREAU OF PERSONNEL: LAW
ENFORCEMENT CIVIL SERVICE
COMMISSION:** 55:02:11:01; 55:02:12:02;
55:02:13:05; 55:02:14:01, 55:02:14:02,
55:02:14:02.01, 55:02:14:02.03,
55:02:14:02.04, 55:02:14:02.05,

55:02:14:02.06, 55:02:14:02.07,
55:02:14:02.09, 55:02:14:04, 55:02:14:07,
55:02:14:08, 55:02:14:12; 55:02:15:02.01,
55:02:15:04; 55:02:16:02, 55:02:16:03,
55:02:16:04, 55:02:16:07; 55:02:17:03,
55:02:17:04.01, 55:02:17:08, 55:02:17:08.01,
55:02:17:09, 55:02:17:10, 55:02:17:11,
55:02:17:12, 55:02:17:15; 55:02:18:01,
55:02:18:02, 55:02:18:05; 55:02:19:03,
55:02:19:04; 55:02:20:01; 55:02:21:03,
55:02:21:03.01, 55:02:21:06; 55:02:22:05,
55:02:22:06, 55:02:22:06.01, 55:02:22:06.02,
55:02:22:06.03, 55:02:22:06.04,
55:02:22:06.05, 55:02:22:11, 55:02:22:12,
55:02:22:13, 55:02:22:16, 55:02:22:17, and
55:02:22:18.

History-Notice: 30 SDR 99, Dec. 8, 2003
Hearing: January 9, 2004
Filed: April 22, 2004
Effective: May 12, 2004

Executive Appointments:

James Hagen, Fort Pierre, was appointed on April 8, 2004, to the position of **Secretary of the Department of Tourism and State Development**, effective March 22, 2004, and shall continue at the pleasure of the Governor.

Peggy Boysen, Presho, was reappointed on April 13, 2004, to the **Abstracters' Board of Examiners**, effective immediately and shall continue until April 1, 2008.

Rebecca Grandpre, Pierre, was appointed on April 13, 2004, to the **Board of Social Work Examiners**, effective immediately and shall continue until July 1, 2007.

Steve Lindquist, Sioux Falls, was appointed on April 13, 2004, to the **Board of Social Work Examiners**, effective immediately and shall continue until July 1, 2007.

Kelly Duncan-Clark, Dakota Dunes, was appointed on April 13, 2004, to the **South Dakota Academic Achievement Test**

Advisory Council, effective immediately and shall continue until July 1, 2006.

Joanne Groves, Huron, was appointed on April 13, 2004, to the **South Dakota Academic Achievement Test Advisory Council**, effective immediately and shall continue until July 1, 2006.

Heather Stettmichs, Brandon, was appointed on April 13, 2004, to the **South Dakota Advisory Panel for Children with Disabilities**, effective immediately and shall continue until June 30, 2006.

John Fowler, Elk Point, was reappointed on April 13, 2004, to the **State Historical Society Board of Trustees**, effective April 16, 2004, and shall continue until April 15, 2007.

Dennis Eisnach, Pierre, was appointed on April 15, 2004, to the **South Dakota Real Estate Commission**, to replace Nancy Ekstrum, effective immediately and shall continue until April 11, 2008.

Karl Adam, Pierre, was appointed on April 16, 2004, to the **Housing Development Authority**, to replace John Rothstein, effective June 30, 2004, and shall continue until June 30, 2007.

James C. Roby, Watertown, was appointed on April 16, 2004, to the **Housing Development Authority**, to replace Chris Houlette, effective immediately and shall continue until June 3, 2008.

Barbara Everist, Sioux Falls, was appointed on April 19, 2004, to the **South Dakota Board of Education**, to replace Mary Sommervold, effective June 1, 2004, and shall continue until December 31, 2007.

Michelle Jones, Watertown, was appointed on April 22, 2004, to the **Family Support Council**, to replace Lynn Peterson, effective immediately and shall continue until April 22, 2007.

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 Commerce and Regulation for commercial driver licensing, the Department of Labor for Article 47:03, and the Department of Revenue.

REMINDER OF HEARINGS SCHEDULED

5-3-2004	Corrections: Board of Pardons and Paroles	Amend rules to modernize the Parole Board's, Parole Service's, and the release date calculation operational procedures; 30 SDR 158.
5-6-2004	Game, Fish and Parks	Amend rules regarding the Youth Deer Season, the Black Hills Deer Hunting Season, the Fall Wild Turkey Hunting Season, the Nonresident Waterfowl Licenses, the Youth Pheasant Hunting Season, and Aerial Hunting; 30 SDR 165.
5-7-2004	Revenue & Regulation: Division of Securities	Adopt and amend rules to comply with the adoption of the new Uniform Securities Act 2002, chapter 47-31B; 30 SDR 165.
5-10-2004	Labor: Board of Technical Professions	Amend rules that will make it possible to use applications interactive over the internet, update references, change definitions, allow test vendors, permit students with five semesters of engineering to take the FE exam, provide for licensees to reactivate and reinstate, retake land surveying exam, add rules for fire alarm systems, and clarify expectations from licensees on exempt projects; 30 SDR 161.
5-10-2004	Health: Funeral Services Board	Amend rules regarding contested cases concerning license suspension or revocation matters; clarify certain definitions; broaden the prohibition against false listing and false advertising by limiting the use of the advertising phrase "locally owned and operated"; clarifying all funeral services contract requirements; adding circumstances under which an unembalmed body may be kept for a period greater than 24 hours; updating the traineeship procedures and requirements; updating the license application and examination process; impose costs and fees associated with certain inspections; insert a requirement as to when all crematories shall be opened for inspection; clarify refrigeration requirements; and delete redundant and outdated rules and statutory citations; 30 SDR 169.

5-11-2004	Labor: Division of Labor and Management	Updated the Workers' Compensation fee schedule; 30 SDR 152.
5-11-2004	Agriculture: Division of Agricultural Services	Update rules to meet the 2003 Pasteurized Milk Ordinance; 30 SDR 156.
5-11-2004	Agriculture: Division of Agricultural Services	Update manufacturing grade rules pertaining to the production of milk and milk products; 30 SDR 157.
5-11-2004	Agriculture: Division of Agricultural Services	Update rules regarding the quarantine against Karnal bunt, a wheat disease; 30 SDR 157.
5-11-2004	Agriculture: Division of Agricultural Services	Update the noxious weed list; 30 SDR 157.
5-13-2004	Board of Regents	Adopt rules to implement the South Dakota Opportunity Scholarship program; 30 SDR 165.
5-17-2004	Social Services: Economic Assistance	Amend rules to increase the payment standards for TANF households and reduce the maximum period of ineligibility when an applicant refuses to accept employment or additional hours of employment, terminates employment, or reduces hours of employment without good cause within the 60 days preceding the date of application; 30 SDR 170.
5-17-2004	Education: Board of Education	Amend rules to give the department the authority to grant endorsement level approval, rather than individual universities; allow students with a previous content specific major to take additional coursework in pedagogy to complete their education degrees and pass a content exam to verify their content knowledge; revise the rules so they are content standards based and allow preparing institutions the flexibility to vary their courses to meet the content standards; and allow principals to obtain preschool-12 certification.; 30 SDR 170.
6-17-2004	Environment and Natural Resources: Board of Minerals and Environment	Amend rules to update existing hazardous waste rules by incorporating the federal rules by reference. This includes changes that have been made to the federal hazardous waste rules from July 1, 2002, to June 30, 2003. Changes to the rules include: establishing criteria for the use of certain materials in the production of zinc fertilizers, the establishment of treatment standards prior to disposing of certain metal-containing wastes, and the correction of technical errors in previously promulgated rules; 30 SDR 169.

Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Tuesday, May 18, 2004, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2004 interim: June 3, August 3, and October 15.

Note: An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the LRC web site.

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