

REGISTER



South Dakota Legislative Research Council

Volume 36

Monday, 8:00 a.m., May 3, 2010

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

Department of Revenue and Regulation:

Division of Insurance: (April 9, 2010) intends to amend Medicare Supplement Insurance rules to incorporate the new 2010 Medicare deductibles, incorporate 2010 NAIC Model revisions, and update the rules in accordance with federal regulations; and amend a Producer Licensing rule to amend continuing education timeframes. The general authority for these rules, as cited by the division, is SDCL 58-4-1, 58-17A-2, 58-17A-5, 58-17A-6, 58-17A-7, and 58-30-117.

A public hearing will be held in the Main Floor Conference Room, Anderson Building, Pierre, South Dakota, on May 17, 2010, at 10:00 a.m. Paper copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Revenue and Regulation, 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 17, 2010, to be considered. The text of the proposed rules will be posted on the Department of Revenue and Regulation's website at <http://www.state.sd.us/drr2/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 Environment and Natural Resources: Board of Water and Natural Resources:

(April 26, 2010) intends to repeal some of the Water Development District rules that are no longer valid due to legislative changes. The general authority for these rules, as cited by the department, is SDCL 46A-3C-6.

A public hearing will be held over the Dakota Digital Network (DDN) on May 21, 2010, at 10:00 a.m. CDT at the following DDN sites: Aberdeen – Northern State University, 1200 S. Jay Street, Beulah Williams Library, Room 117; Brookings – SDSU, 101 Pugsley Center, Room 203 (8th & Medary Avenue); Madison – DSU, 820 N. Washington, Tech Classroom Building, Room 103; Mitchell – Mitchell Technical Institute Technology Center, 1800 E. Spruce Street, Room 155; Pierre – State Capitol, 500 E. Capitol Avenue, Studio A, Room B12; Rapid City – SDSM&T, 501 E. St. Joseph Street, Class Room Building, Room 109; Spearfish – BHSU, 1200 University Station, E.Y. Library, Room L011; Sioux Falls – SD Public Universities & Research Center, 2205 Career Place, Room 282S; Vermillion – USD, 414 E. Clark, Delzell Education Center, Room 203; and Watertown – Lake Area Technical Institute, 230 11th St. NE, Main Building, Room 128. Copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Environment and Natural Resources, Division of Financial and Technical Assistance, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501-3181. Copies may also be accessed on the department's web page at <http://denr.sd.gov/dfta/wwf/wwfpublicnotices.aspx>. Written comments must reach the Board of Water and Natural Resources by close of

business on May 20, 2010, 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) 773-4216 at least 48 hours before the hearing.

Department of Labor: South Dakota Board of Accountancy: (April 27, 2010) intends to amend rules to update references; update reference to individual's certificate; update regional accreditation name, clarification of reciprocal license fee, and amendments to peer review to comply with the AICPA Peer Review Standards effective January 1, 2009. The general authority for these rules, as cited by the board, is SDCL 36-20B-12, 36-20B-15, and 36-20B-18.

A public hearing will be held at the Department of Legislative Audit, 427 S. Chapelle, Pierre, South Dakota, on May 21, 2010, at 10:00 a.m. (CDT). Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Accountancy, 301 E. 14th Street, #200, Sioux Falls, South Dakota 57104 or by calling (605) 367-5770. Material sent by mail must reach the Board of Accountancy office on or before May 17, 2010, 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) 367-5770 at least 48 hours before the hearing.

Department of Environment and Natural Resources: Board of Water and Natural Resources: (April 28, 2010) intends to amend Consolidated Water Facilities Construction Program rules to allow the board to award assistance from other funding programs to applicants applying for assistance from the program if the applicant is eligible for assistance from the other funding programs; raise minimum rate thresholds needed to have an application considered by the board; and eliminate the requirement that the board may

only make a final decision on the award of funds after at least 12 hours have passed since the application has been presented to the board; amend State Water Pollution Control Revolving Fund Program rules to establish a system within the program to award additional subsidy through the use of principal forgiveness; allow the board to award assistance from other funding programs to applicants applying for assistance from this program if the applicant is eligible for assistance from the other funding programs; modify the priority point criteria to award points for projects that qualify as green infrastructure, water or energy efficiency improvements or other environmentally innovative activity under the Act and other minor priority point adjustments; and change the application deadline from the 15th of January, April, July, and October to the 1st of January, April, July, and October and eliminate deadlines for applicants to submit a completed facilities plan; amend a Solid Waste Management Program rule to eliminate the requirement that the board may only make a final decision on the award of program funds after at least 12 hours have passed since the application has been presented to the board; and amend Drinking Water State Revolving Fund Program rules to establish a system within the program to award additional subsidy through the use of principal forgiveness; allow the board to award assistance from other funding programs to applicants applying for assistance from this program if the applicant is eligible for assistance from the other funding programs; modify the priority point criteria to award points for projects that qualify as green infrastructure, water or energy efficiency improvements or other environmentally innovative activity under the Act, eliminate points for the expansion of the service area of a community water system that is not operated by a municipality or sanitary district, and other minor priority point adjustments; and change the application deadline from the 15th of January, April, July, and October to the 1st of January, April, July, and October and eliminate deadlines for applicants to submit a completed facilities plan. The general authority for these rules, as

cited by the department, is SDCL 46A-1-60.1, 46A-1-60.2, 46A-1-60.3, 46A-1-65, and 46A-1-84.

A public hearing will be held over the Dakota Digital Network (DDN) on May 21, 2010, at 10:00 a.m. CDT at the following DDN sites: Aberdeen – Northern State University, 1200 S. Jay Street, Beulah Williams Library, Room 117; Brookings – SDSU, 101 Pugsley Center, Room 203 (8th & Medary Avenue); Madison – DSU, 820 N. Washington, Tech Classroom Building, Room 103; Mitchell – Mitchell Technical Institute Technology Center, 1800 E. Spruce Street, Room 155; Pierre – State Capitol, 500 E. Capitol Avenue, Studio A, Room B12; Rapid City – SDSM&T, 501 E. St. Joseph Street, Class Room Building, Room 109; Spearfish – BHSU, 1200 University Station, E.Y. Library, Room L011; Sioux Falls – SD Public Universities & Research Center, 2205 Career Place, Room 282S; Vermillion – USD, 414 E. Clark, Delzell Education Center, Room 203; and Watertown – Lake Area Technical Institute, 230 11th St. NE, Main Building, Room 128. Copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Environment and Natural Resources, Division of Financial and Technical Assistance, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501-3181. Copies may also be accessed on the department's web page at <http://denr.sd.gov/dfta/wwf/wwfpublicnotices.aspx>. Written comments must reach the Board of Water and Natural Resources by close of business on May 20, 2010, 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) 773-4216 at least 48 hours before the hearing.

CORRECTION: Department of Education: Board of Education: (April 21, 2010) intends to amend rules to require all public school districts operating preschool programs to submit student enrollment data for their preschool students

effective with the 2010-2011 school year and to provide for timelines and definitions. The general authority for these rules, as cited by the board, is SDCL ~~13-13-37.4~~ 13-3-51.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Brian J. Jackson, Sioux Falls, was reappointed on April 27, 2010, to the **South Dakota Real Estate Commission**, effective immediately and shall continue until April 11, 2013.

John Kranz, Mitchell, was reappointed on April 27, 2010, to the **Transportation Commission**, effective immediately and shall continue until April 18, 2014.

Sam Tidball, Ft. Pierre, was reappointed on April 27, 2010, to the **Transportation Commission**, effective immediately and shall continue until April 18, 2014.

Executive Orders:

The Governor has signed **Executive Order 2010-11** dated April 26, 2010. The Governor has declared a state of emergency to exist in eastern South Dakota due to heavy fall rains and heavy snowfall throughout the winter which has caused widespread flooding and damage to road infrastructure.

The Governor has signed **Executive Order 2010-12** dated April 27, 2010. Due to the high water in Blue Dog Lake, the Governor has established a "no-wake" zone within 300 feet of the shoreline for the entire lake.

The Governor has signed **Executive Order 2010-13** dated April 27, 2010. The Governor has declared a state of emergency to exist in Corson, Perkins, and Ziebach counties in South Dakota due to a severe winter storm on April 2, 2010, that caused widespread electric power infrastructure damage.

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

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| 5-4-2010 | Revenue and Regulation: Division of Insurance | Amend a rule to allow for additional risk pool plan designs; 36 SDR 158. |
| 5-6-2010 | Game, Fish and Parks | Amend Licensing Agents rules to establish definitions for "licensing agent" and "license fees;" remove obsolete language from the existing rule; establish a department timeline for distribution of invoices to licensing agents for previous month's sales to license agents; establish a timeline for licensing agents' payment to department for fees collected; create new rules establishing the guidelines for disconnection and interest charges for licensing agents past due on payments owed to the department for license sales, establishing the requirements of use of Emergency Authorization licenses, and establishing the value for lost or stolen Emergency Authorization licenses; and update language of rule for filling out license applications in order to incorporate the needs of the automated licensing system; amend a Uses of Parks and Public Lands rule to define "camper units" and subject "camper units" along with "persons and groups" to the 15-day limit imposed on the length of a camping stay in a state park, state recreation area or state lakeside use area; amend a License Forms and Fees rule to include subscription holders as a list type for the purpose of list requests, and establish provisions that governmental entities may obtain lists free of charge, and that political parties and elected officials are required to pay full-fee charges to obtain license and subscription holder lists; amend an Archery Restrictions rule to allow archery hunters to use and possess mechanical broadheads with a cutting diameter no greater than 2 inches; amend Waterfowl Hunting Seasons rules to establish an August Management Take to allow for the taking of resident Canada geese as authorized by the U.S. Fish and Wildlife |

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| | | Service and to establish a resident only license, season dates, open areas (Brookings, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Lake McCook, Marshall, Minnehaha, Moody and Roberts counties), daily bag and possession limits, and requirements and restrictions, including establishing shooting hours and requiring a state migratory bird certification (federal waterfowl stamp would not be required); and amend a Dog Training rule to transfer authority to issue special permits to individuals who use horses to train dogs on publicly owned land from the department to the government agency that holds land management authority over the publicly owned land; 36 SDR 161. |
| 5-11-2010 | Social Services: Economic Assistance | Amend rules to expand the list of sources available for determining Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) eligibility; clarify eligibility and payment requirements related to the Auxiliary Placement Program; and update medical eligibility requirements to comply with federal provisions; 36 SDR 162. |
| 5-11-2010 | Social Services: Economic Assistance | Repeal obsolete rules within the Division of Economic Assistance relating to assistance payments; 36 SDR 163. |
| 5-12-2010 | Attorney General: Law Enforcement Officers Standards and Training Commission | Amend a rule to provide for the issuance of a certificate to a canine team upon completion of certification standards and repeal a rule to clarify the Commission's decision on only accepting authorized individuals into training programs; 36 SDR 157. |
| 5-12-2010 | Secretary of State: Board of Elections | Amend rules to provide notice to felons being removed from the voter registration list, provide additional information on the municipal election cancellation notice, provide notice regarding felon disqualification, clarify ballot wording, update water development petition language, provide a form for precinct committeemen and women, require additional information on the absentee ballot log, add language to absentee voting materials to accommodate overseas voters requesting voting materials electronically and provide an uncounted absentee ballot envelope; |

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| | | 36 SDR 161. |
| 5-13-2010 | Revenue and Regulation: Division of Banking | Amend the record keeping requirements for trust companies chartered and regulated by the Division of Banking; reduce the number of copies of paper application forms required to be submitted to the Division of Banking for review and to require an electronic version of all application materials submitted; provide a definition for the term private trust company; provide additional guidance to South Dakota trust companies with regard to trust administration duties that may be done in South Dakota to comply with new statutory requirements; repeal duplicative language dealing with the background investigation process for mortgage license applicants which is now detailed in South Dakota law; establish surety bond requirements for mortgage licensees that take into consideration the dollar amount of loans originated, brokered, or serviced by mortgage licensees in South Dakota; increase the records retention timeframe from three years to five years for mortgage licensees; and clarify that only loan information specific to the licensees' activities in South Dakota are required to be reported on the mortgage call report for South Dakota; 36 SDR 157. |
| 5-17-2010 | Education: Board of Education | Amend rules to require all public school districts operating preschool programs to submit student enrollment data for their preschool students effective with the 2010-2011 school year and to provide for timelines and definitions; 36 SDR 169. |
| 5-17-2010 | Revenue and Regulation: Division of Insurance | Amend Medicare Supplement Insurance rules to incorporate the new 2010 Medicare deductibles, incorporate 2010 NAIC Model revisions, and update the rules in accordance with federal regulations; and amend a Producer Licensing rule to amend continuing education timeframes; 36 SDR 175. |
| 5-21-2010 | Human Services: Board of Social Work Examiners | Amend a rule to increase the exam fee for Social Worker Associate (Associate), Social Worker (Bachelor) and Certified Social Worker (Master) levels from \$200 to \$255 and for Certified Social Worker – Private Independent Practice (Clinical and Advanced Generalist) level from \$200 to \$285; |

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| | | 36 SDR 161. |
| 5-21-2010 | Revenue and Regulation: South Dakota Lottery Commission | Amend rules to authorize the Lottery upon initial application to license retailers to sell both on-line and instant tickets by taking advantage of technology that is now available to the Lottery with the new online gaming system and related products and service contract, to set the fees for on-line and instant license applications and annual license renewal, to set communications fees retailers licensed after July 1, 2010 will be required to pay, and to set sales benchmarks for retailers to meet to obtain a credit for the communications fees; 36 SDR 169. |
| 5-21-2010 | Environment and Natural Resources: Board of Water and Natural Resources | Repeal some sections of the Water Development District rules that are no longer valid due to legislative changes; 36 SDR 175. |
| 5-21-2010 | Environment and Natural Resources: Board of Water and Natural Resources | Amend Consolidated Water Facilities Construction Program rules to allow the board to award assistance from other funding programs to applicants applying for assistance from the program if the applicant is eligible for assistance from the other funding programs; raise minimum rate thresholds needed to have an application considered by the board; and eliminate the requirement that the board may only make a final decision on the award of funds after at least 12 hours have passed since the application has been presented to the board; amend State Water Pollution Control Revolving Fund Program rules to establish a system within the program to award additional subsidy through the use of principal forgiveness; allow the board to award assistance from other funding programs to applicants applying for assistance from this program if the applicant is eligible for assistance from the other funding programs; modify the priority point criteria to award points for projects that qualify as green infrastructure, water or energy efficiency improvements or other environmentally innovative activity under the Act and other minor priority point adjustments; and change the application deadline from the 15 th of January, April, July, and October to the 1 st of January, April, July, and October and eliminate deadlines for applicants to submit a completed |

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| | | facilities plan; amend a Solid Waste Management Program rule to eliminate the requirement that the board may only make a final decision on the award of program funds after at least 12 hours have passed since the application has been presented to the board; and amend Drinking Water State Revolving Fund Program rules to establish a system within the program to award additional subsidy through the use of principal forgiveness; allow the board to award assistance from other funding programs to applicants applying for assistance from this program if the applicant is eligible for assistance from the other funding programs; modify the priority point criteria to award points for projects that qualify as green infrastructure, water or energy efficiency improvements or other environmentally innovative activity under the Act, eliminate points for the expansion of the service area of a community water system that is not operated by a municipality or sanitary district, and other minor priority point adjustments; and change the application deadline from the 15 th of January, April, July, and October to the 1 st of January, April, July, and October and eliminate deadlines for applicants to submit a completed facilities plan; 36 SDR 176. |
| 5-21-2010 | Labor: Board of Accountancy | Amend rules to update references; update reference to individual's certificate; update regional accreditation name, clarification of reciprocal license fee, and amendments to peer review to comply with the AICPA Peer Review Standards effective January 1, 2009; 36 SDR 176. |

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, June 8, 2010, in Room 414, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2010 interim: July 20, August 31, September 28, November 17, and December 20.

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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