

# REGISTER



*South Dakota Legislative Research Council*

*Volume 31*

*Tuesday, 8:00 a.m., May 31, 2005*

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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 Public Safety: Office of Emergency Medical Services:*** (May 23, 2005) intends to adopt rules to establish EMS cardiopulmonary directives for ambulance personnel. The general authority for these rules, as cited by the department, is SDCL 34-12F-3.

A public hearing will be held in the 2<sup>nd</sup> floor conference room, Public Safety Building, 118 West Capitol, Pierre, South Dakota, on June 21, 2005, at 10:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to South Dakota Department of Public Safety, Office of Emergency Medical Services, 118 West Capitol, Pierre, South Dakota 57501-2036. Written comments must be received by July 1, 2005, 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) 773-4031 before the hearing.

***Department of Environment and Natural Resources: Water Management Board:*** (May 23, 2005) has filed rules to amend uses assigned to streams for Minnesota River's tributaries' by designating the beneficial use of warmwater semipermanent fish life propagation waters and limited contact recreation waters to Labolt Lake Creek in Grant County; for Big Sioux River Basin by designating the beneficial use of warmwater marginal fish life propagation waters and limited contact recreation waters to a segment of an unnamed tributary of Skunk Creek in Minnehaha County, designating the beneficial use of warmwater semipermanent fish

life propagation waters and limited contact recreation waters to a segment of an unnamed tributary of West Pipestone Creek in Minnehaha County, designating the beneficial use of warmwater semipermanent fish life propagation waters and limited contact recreation waters to a segment of Big Ditch Creek in Union County, and designating the beneficial use of warmwater marginal fish life propagation waters and limited contact recreation waters to a segment of Big Ditch Creek in Union County; for Cheyenne River Basin by designating the beneficial use of coldwater permanent fish life propagation waters and limited contact recreation waters to a segment of Beaver Creek in Custer County; for Belle Fourche River Basin by designating the beneficial use of coldwater marginal fish life propagation waters and limited contact recreation waters to Spring Creek, a tributary to the Redwater River in Lawrence County, designating the beneficial use of coldwater marginal fish life propagation waters and limited contact recreation waters to Rubicon Gulch Creek, a tributary of Spearfish Creek in Lawrence County; for Vermillion River Basin by designating the beneficial use of warmwater marginal fish life propagation waters and limited contact recreation waters to Blind Creek, a tributary of the Vermillion River in Lincoln County. The general authority for these rules, as cited by the board, is SDCL 34A-2-93.

A public hearing will be held in the Matthew Environmental Education and Training Center, 523 East Capitol Avenue, Pierre, South Dakota, on July 6, 2005, at 9:30 a.m. CDT. Copies of the proposed rules may be obtained without charge from and written comments sent to Patrick Snyder, Surface Water Quality Program, Department of Environment and Natural Resources, 523 East Capitol, Pierre, South

Dakota 57501-3182. Material sent by mail must reach the Surface Water Program by 5:00 p.m., July 5, 2005, in order to be taken into consideration. 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) 773-3351 at least 48 hours before the hearing.

**Department of Human Services: Board of Counselor Examiners:** (May 23, 2005) has filed rules to clarify that other state licensure requirements must meet or exceed South Dakota's requirements for licensure, remove the requirement for supervisors to provide their social security number to the board, add the requirement that supervisees sign an agreement to adhere to the American Counseling Association Code of Ethics and Standards of Practice, and change the supervision requirements by providing more flexible supervision requirements and clearly listing the supervisor's requirements and duties, remove the requirement for supervisors to provide their social security number and add the requirement that supervisees sign an agreement to adhere to the American Association for Marriage and Family Therapists Code of Ethics. The general authority for these rules, as cited by the board, is SDCL 36-32-16, 36-32-26, 36-32-42, 36-32-43, 36-32-44, and 36-33-9.

A public hearing will be held in Room 413 of the Capitol Building, 500 E. Capitol Avenue, Pierre, South Dakota, on June 24, 2005, at 9:00 a.m. Copies of the proposed rule may be obtained without charge from and written comments may be sent to the South Dakota Board of Counselor Examiners, c/o Joyce Vos, Executive Secretary, P.O. Box 1822, Sioux Falls, SD 57101-1822. Written comments must be received by 5 p.m. on June 17, 2005. 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 the department at (605) 331-2927 at least 48 hours before the hearing.

**Department of Revenue and Regulation: Commission on Gaming:** (May 23, 2005) is proposing to clarify that when stakes races are declared off, refunds for subscriptions and fess are only made for stakes race finals; provide a mechanism for reimbursement to the racing stewards for mileage, per diem and lodging on hearings at locations other than the Association grounds; eliminate minimum bankroll requirements set forth in Article 20:18, Appendix A, Section 535.5, as well as other requirements pertaining to calculations and minimum bankroll requirements; require that licensees notify the executive secretary in writing, before a game tournament begins, as to the number of tables involved and the South Dakota stamp identification number of each table; increase the amount of overages or shortages that must be reported to the Commission from \$50 to \$100; require cashiers to validate vouchers and to require the cashiers sign paper tokens and casino scripts; and eliminate the requirement that licensees maintain the name and authorized programmer or manufacturer representative in the access log. The general authority for these rules, as cited by the commission, is 42-7-56, 42-7B-7, 42-7B-11, and 42-7B-32.

A public hearing will be held at City Hall, 102 Sherman Street, Deadwood, South Dakota, on Tuesday, June 14, 2005, at 9:00 a.m. (MT). Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Commission on Gaming, 425 East Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received by June 9, 2005, 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) 773-6050 or (605) 578-3074 at least 48 hours before the hearing.

**Department of Revenue and Regulation: South Dakota Lottery Commission:** (May 25, 2005) has filed a rule to adopt changes to the Powerball and Power Play games recently

approved by the 29 participating lotteries. The changes, to take effect after the drawing of August 28, 2005, include addition of pool numbers and changes in corresponding odds, increase in starting jackpot and second and third tier prizes, graduated annuity jackpot payments, and Power Play wheel changes. The general authority for this rule, as cited by the commission, is SDCL 42-7A-21.

A public hearing will be held at the State Capitol, 500 East Capitol Avenue, Room 412, Pierre, South Dakota, on June 24, 2005, at 10:30 a.m. Copies of the proposed rules may be obtained from and written comments sent to the Department of Revenue & Regulation, Legal Division/Rules, 445 East Capitol Avenue, Pierre, South Dakota 57501, or by emailing [Beth.Christie@state.sd.us](mailto:Beth.Christie@state.sd.us). Copies of the rules are also available at the department's website: [www.state.sd.us/drr](http://www.state.sd.us/drr). Written comments must be received by June 23, 2005, 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) 773-4701 at least forty-eight hours before the hearing

#### **FILINGS IN THE SECRETARY OF STATES OFFICE:**

##### ***CORRECTION:***

##### **DEPARTMENT OF SOCIAL SERVICES:**

##### **OFFICE OF MEDICAL SERVICES:**

67:16:01:22; 67:16:02:11; 67:16:03:13;  
67:16:06:07; 67:16:07:05.01; 67:16:08:08;  
67:16:09:07; 67:16:11:12; 67:16:14:10;  
67:16:41:16; 67:16:44:08; 67:16:46:07.

History-Notice: 31 SDR 147, April 4, 2005

Hearing: April 21, 2005

~~Filed: May 17, 2005~~

~~Effective: June 6, 2005~~

Filed: May 19, 2005

Effective: June 8, 2005

#### **Executive Appointments:**

**Judith Payne**, Pierre, was appointed to the position of **Secretary of the Department of Transportation**, effective April 4, 2005, and shall continue at the pleasure of the Governor.

**Deborah Bowman**, Pierre, was appointed to the position of **Secretary of the Department of Social Services**, effective April 10, 2005, and shall continue at pleasure of the Governor.

**Larry Tolzin**, Menno, was reappointed on May 10, 2005, to the **South Dakota Workforce Development Council**, effective immediately and shall continue until July 1, 2008.

**John VanDeWalle**, Sioux Falls, was reappointed on May 10, 2005, to the **South Dakota Health and Educational Facilities Authority**, effective immediately and shall continue until June 30, 2010.

**Linda Barker**, Sioux Falls, was reappointed on May 23, 2005, to the **Housing Development Authority**, effective July 1, 2005, and shall continue until June 30, 2010.

**Pat J. Lund**, Brookings, was reappointed on May 23, 2005, to the **South Dakota Workforce Development Council**, effective July 1, 2005, and shall continue until June 30, 2008.

**Cindy Mydland**, Brookings, was reappointed on May 23, 2005, to the **Housing Development Authority**, effective July 1, 2005, and shall continue until June 30, 2010.

**Mack Wyly**, Ft. Pierre, was reappointed on May 23, 2005, to the **South Dakota Health and Educational Facilities Authority**, effective July 1, 2005, and shall continue until June 30, 2010.

**Sally J. Christenson**, Pierre, was appointed on May 26, 2005, to the **Commission on Judicial Qualifications**, to replace Curt Jones, effective

July 1, 2005, and shall continue until June 30, 2009.

**Linda Daugaard**, Garretson, was reappointed on May 26, 2005, to the **State Library Board**, effective July 1, 2005, and shall continue until June 30, 2009.

**Michelle Howard**, Brookings, was reappointed on May 26, 2005, to the **State Library Board**, effective July 1, 2005, and shall continue until June 30, 2009.

**Barb Koenders**, Brookings, was reappointed on May 26, 2005, to the **South Dakota Advisory Panel for Children With Disabilities**, effective July 1, 2005, and shall continue until June 30, 2008.

**Greg Riley**, Rapid City, was reappointed on May 26, 2005, to the **South Dakota Advisory Panel for Children With Disabilities**, effective July 1, 2005, and shall continue until June 30, 2008.

**Executive Order:**

The Governor has signed **Executive Order 2005-06** dated May 23, 2005, which creates the Emergency Medical Services Advisory Group. This order provides for the appointment of the group members, its term of operation, and states that the group shall be administratively attached to the Department of Public Safety. The group will meet at least two times each year, report to the Governor, and provide guidance to implement programs aimed at the treatment and prevention of the sick and injured.

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**

6-2-2005	Game, Fish and Parks	Amend rules to establish the number/types of nonresident and resident hunting licenses/tags available in the applicable modified, consolidated, and existing hunting Units; modify the hunting season dates of "antlerless deer" in applicable Units; permit hunting of "anterless deer" during the reopened hunting season on private and public lands in applicable hunting Units; and modify boundaries of certain hunting Units and merge certain hunting Units into consolidated hunting Units; close an area in the Black Hills (portions of the Spring Creek drainage in Pennington County) to beaver trapping; and make comprehensive modifications of rules and regulations relative to Park Concession Leases; 31 SDR 184.
6-3-2005	Health: Board of Chiropractic Examiners	Amend rules to update the licensing procedure to provide for a nonrefundable \$100 as part of the initial license fee and further to provide for the criminal background investigation for

		<p>applicants, to clarify the reciprocity provisions, to incorporate into approved continuing education courses a recognized approval organizations listings, to clarify preceptor selection, and to remove the term "gross" from professional conduct and to delete redundant and outdated rules; 31 SDR 170.</p>
<p>6-3-2005</p>	<p>Social Services: Child Protection Services</p>	<p>Amend rules to define terms; require either accreditation by the Council on Accreditation (COA) or the Joint Commission on Accreditation of Health Care Organizations (JACHO); establish the minimum services that an intensive residential treatment center must provide; specify which children may be eligible for placement into an Intensive Residential Treatment Center; establish requirements for the center's program director, direct care staff, case managers, and counselors and therapists; establish a caseload limit; require the center to establish a treatment team for each child in care and specify those individuals who must be included on a treatment team; require the treatment team to develop case service and discharge plans and establish the minimum requirements for the plans; require the center to provide living units for the children in care and establish requirements for the staff members supervising a living unit; establish the staff-child ratio; require a center to provide orientation and annual in-service training and establish the minimum requirements for the training; require a center to have written policy statements in certain, specified areas; establish nursing, psychiatric, and psychological service requirements; specify who is responsible for the administration of medications; require the center to periodically review the child's case service plan and provide updates to the placing agency; include an intensive residential treatment center in the definitions of "alternative care" and "facility"; require a center to provide written documentation of the need for services; allow the Department to issue a provisional license to a center under certain circumstances; require a center to meet local zoning ordinances and be approved by fire and health authorities; require the center to</p>

		provide for its funding, building, and equipment needs; require the center to maintain an accounting system and provide for an annual audit; require a center to have liability insurance; establish the minimum requirements for a center's playground area, sleeping areas, and toilet facilities; and require a center to comply with the applicable provisions of chapters 67:42:01 (Provisions and Scope of Services, 67:42:07 (Group Care Centers for Minors), and 67:42:11 (Environmental Health); 31 SDR 183.
6-10-2005	Revenue and Regulation: Banking Commission	Adopt rules that authorize banks to provide mobile banking services to their customers; establish an application fee related to banks entering into mobile banking services; and establish a late fee for filing a renewal application for a money lending license; 31 SDR 177.
6-14-2005	Revenue and Regulation: Gaming Commission	Amend rules to clarify that when stakes races are declared off, refunds for subscriptions and fess are only made for stakes race finals; provide a mechanism for reimbursement to the racing stewards for mileage, per diem and lodging on hearings at locations other than the Association grounds; eliminate minimum bankroll requirements set forth in Article 20:18, Appendix A, Section 535.5, as well as other requirements pertaining to calculations and minimum bankroll requirements; require that licensees notify the executive secretary in writing, before a game tournament begins, as to the number of tables involved and the South Dakota stamp identification number of each table; increase the amount of overages or shortages that must be reported to the Commission from \$50 to \$100; require cashiers to validate vouchers and to require the cashiers sign paper tokens and casino scripts; and eliminate the requirement that licensees maintain the name and authorized programmer or manufacturer representative in the access log; 31 SDR 198.
6-21-2005	Bureau of Personnel	Amend rules that will allow for drug testing of certain primary care employees at the South Dakota Human Services Center, Developmental Hospital, and Veterans' Home and to make changes in the procedures for

		drug testing of state employees so as to comply with legislation adopted by the South Dakota Legislature in 2005; 31 SDR 184.
6-21-2005	Public Safety: Emergency Medical Services	Adopt rules that will establish EMS cardiopulmonary directives for ambulance personnel; 31 SDR 197.
6-24-2005	Human Services: Board of Counselor Examiners	Clarify that other state licensure requirements must meet or exceed South Dakota's requirements for licensure, remove the requirement for supervisors to provide their social security number to the board, add the requirement that supervisees sign an agreement to adhere to the American Counseling Association Code of Ethics and Standards of Practice, and change the supervision requirements by providing more flexible supervision requirements and clearly listing the supervisor's requirements and duties, remove the requirement for supervisors to provide their social security number and add the requirement that supervisees sign an agreement to adhere to the American Association for Marriage and Family Therapists Code of Ethics, 31 SDR 198.
6-24-2005	Revenue and Regulation: Lottery Commission	Adopt changes to the Powerball and Power Play games recently approved by the 29 participating lotteries. The changes, to take effect after the drawing of August 28, 2005, include addition of pool numbers and changes in corresponding odds, increase in starting jackpot and second and third tier prizes, graduated annuity jackpot payments, and Power Play wheel changes; 31 SDR 198.
7-6-2005	Environment and Natural Resources: Water Management Board	to amend uses assigned to streams for Minnesota River's tributaries' by designating the beneficial use of warmwater semipermanent fish life propagation waters and limited contact recreation waters to Labolt Lake Creek in Grant County; for Big Sioux River Basin by designating the beneficial use of warmwater marginal fish life propagation waters and limited contact recreation waters to a segment of an unnamed tributary of Skunk Creek in Minnehaha County, designating the beneficial use of warmwater semipermanent fish life propagation waters and limited contact recreation waters to a segment of an unnamed tributary of West Pipestone Creek in

	<p>Minnehaha County, designating the beneficial use of warmwater semipermanent fish life propagation waters and limited contact recreation waters to a segment of Big Ditch Creek in Union County, and designating the beneficial use of warmwater marginal fish life propagation waters and limited contact recreation waters to a segment of Big Ditch Creek in Union County; for Cheyenne River Basin by designating the beneficial use of coldwater permanent fish life propagation waters and limited contact recreation waters to a segment of Beaver Creek in Custer County; for Belle Fourche River Basin by designating the beneficial use of coldwater marginal fish life propagation waters and limited contact recreation waters to Spring Creek, a tributary to the Redwater River in Lawrence County, designating the beneficial use of coldwater marginal fish life propagation waters and limited contact recreation waters to Rubicon Gulch Creek, a tributary of Spearfish Creek in Lawrence County; for Vermillion River Basin by designating the beneficial use of warmwater marginal fish life propagation waters and limited contact recreation waters to Blind Creek, a tributary of the Vermillion River in Lincoln County; 31 SDR 197.</p>
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### *Rules Review Committee Meetings*

The next meeting of the Interim Rules Review Committee will be held Tuesday, June 14, 2005, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2005 interim: August 9, September 20, October 18, December 6, and January 9, 2006.

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

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