

REGISTER



South Dakota Legislative Research Council

Volume 35

Monday, 8:00 a.m., June 15, 2009

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

Department of Labor: Division of Labor and Management: (June 8, 2009) is proposing to update the Workers' Compensation Fee Schedule and Case Management rules. The general authority for these rules, as cited by the department, is SDCL 62-7-8.

A public hearing will be held in the Kneip Building, Conference Room #2, 700 Governors Drive, Pierre, South Dakota, on June 30, 2009, at 1:00 p.m., CDT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Labor, Division of Labor and Management, Kneip Building, 700 Governors Drive, Pierre, South Dakota 57501. Material sent by mail must be received by July 10, 2009, to be considered. Copies of the proposed rules may also be obtained on the department's website at www.sdjobs.org. Persons who have special needs for which the division can make arrangements are asked to call (605) 773-3681 at least 48 hours before the hearing.

Department of Transportation: (June 10, 2009) is proposing to amend a speed zone in Minnehaha County on SD Highway 38 in the City of Hartford to extend the length of reduced speed limits to the east; amend a speed zone in Tripp County on US Highways 18/183 in the City of Winner to extend the length of reduced speed limits to the southeast; amend a speed zone in Tripp County on State Trunk Highway 44 in the City of Winner to extend the length of reduced speed limits to the east; adopt a speed zone in Tripp County on the service

road adjacent to US Highways 18/183 and SD 44 in the western part of the City of Winner to establish a speed limit of 30 miles per hour; and adopt a speed zone in Tripp County on the service road adjacent to US Highways 18/183 in the southern part of the City of Winner to establish a speed limit of 20 miles per hour. The general authority for these rules, as cited by the department, is SDCL 32-25-7.

A public hearing will be held in the Commission Room of the Becker Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota, on June 25, 2009, at 9:05 a.m. CDST. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of Transportation, Becker-Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota 57501-2586. Material sent by mail must reach the department by June 24, 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) 773-3540 or 1-800-877-1113 (Telecommunication Device for the Deaf).

Department of Game, Fish and Parks: (June 11, 2009) intends to amend a Public Water Zoning rule to establish a 100 foot wide "no wake zone" extending from the existing no wake zone on the southwest arm of McCook Lake (Union County) to the extreme southeast corner of the lake; amend East River Deer Hunting Season rules to establish season dates, requirements and restrictions, open areas, shooting hours, and number of licenses/tags available; modify the season starting date to begin the Saturday before Thanksgiving; eliminate the 7-day antlerless extension

following the 16-day regular season, and adjust the 9-day antlerless extension to begin the Saturday after Christmas; and eliminate the "Super Unit" (McPherson, Edmunds, Faulk and Spink counties) where unfilled tags are valid for all four units; amend an Antelope Hunting Season rule to establish season dates, requirements and restrictions, open areas, shooting hours, and number of resident and nonresident licenses/tags available; and adjust the boundary for Butte County Units 15A and 15B; amend Custer State Park Antelope Hunting Season and License Forms and Fees rules to reopen the season, establish requirements and restrictions, open areas, and shooting hours; establish season dates to begin the Tuesday following Native American Day in October and running for 9 consecutive days (October 13-21, 2009); establish the number of licenses at 3 "any antelope" and 10 "doe/kid" licenses available only to state residents through the drawing system, and establish the fee for the licenses; remove the "archery only" restriction and allow use of any legal weapon with rifle restrictions to follow the guidelines established in the state antelope hunting season regulations; and not allow hunting within 1320 feet (440 yards) of any numbered Custer State Park road; amend a National Wildlife Refuge Deer Hunting Season rule to establish season dates, requirements and restrictions, open areas, shooting hours, and establish the number of resident and nonresident licenses/tags available on Sand Lake National Wildlife Refuge; amend an Early Fall Canada Goose Hunting Season rule to establish season dates, requirements and restrictions, shooting hours, open area, bag and possession limits; and modify the season ending date from the Friday prior to the last Saturday of September to September 30; and amend a Mountain Lion Hunting Season rule to establish season dates, open area, requirements and restrictions, number of resident licenses available; and increase the total mountain lion harvest limit from 35 to 40 and increase the female harvest limit from 15 to 25. The general authority for these rules, as cited by the department, is SDCL 32-3A-1, 41-2-18, 41-6-10, 41-6-18.4,

41-6-19.6, 41-6-21, 41-11-5, and 41-17-1.1.

A public hearing will be held at the Ramkota RiverCentre, 920 West Sioux Avenue, Pierre, South Dakota, on July 1, 2009, at 2:00 p.m. (CDT). 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. 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:

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

74:05:13:01 to 74:05:13:23, inclusive.

History-Notice: 35 SDR 261, May 4, 2009

Hearing: May 27, 2009

Filed: June 9, 2009

Effective: June 29, 2009

DEPARTMENT OF HEALTH: HEALTH SYSTEMS DEVELOPMENT AND

REGULATION: 44:68:01:01; 44:68:02:01 to 44:68:02:08, inclusive; 44:68:03:01 to 44:68:03:04, inclusive; 44:68:04:01 and 44:68:04:02.

History-Notice: 35 SDR 243, April 20, 2009

Hearing: May 11, 2009

Filed: June 9, 2009

Effective: June 29, 2009

DEPARTMENT OF HEALTH: HEALTH SYSTEMS DEVELOPMENT AND REGULATION: 44:03:01:06.02; 44:04:01:02.01, 44:04:01:02.02; 44:58:03:02.01; and 44:67:01:09.

History-Notice: 35 SDR 252, April 27, 2009
Hearing: May 18, 2009
Filed: June 9, 2009
Effective: July 1, 2009

DEPARTMENT OF LABOR: SOUTH DAKOTA BOARD OF ACCOUNTANCY: 20:75:01:01, 20:75:01:07; 20:75:02:13, 20:75:02:18, 20:75:02:19; 20:75:03:02, 20:75:03:03, 20:75:03:07 to 20:75:03:16, inclusive; 20:75:04:00, 20:75:04:01, 20:75:04:12; 20:75:05:00, 20:75:05:01, 20:75:05:05 to 20:75:05:08, inclusive, 20:75:05:17; 20:75:06:01, 20:75:06:02; 20:75:07:01 and 20:75:07:08.

History-Notice: 35 SDR 251, April 27, 2009
Hearing: May 12, 2009
Filed: June 9, 2009
Effective: July 1, 2009

DEPARTMENT OF LABOR: ELECTRICAL COMMISSION: 20:44:14:01; 20:44:16:03, 20:44:16:04, 20:44:16:05, 20:44:16:08, 20:44:16:15, 20:44:16:23; 20:44:18:03; and 24:44:23:01.

History-Notice: 35 SDR 227, March 30, 2009
Hearing: April 16, 2009
Filed: June 9, 2009
Effective: July 1, 2009

PUBLIC UTILITIES COMMISSION: 20:10:36:01 to 20:10:36:73, inclusive.

History-Notice: 35 SDR 243, April 20, 2009
Hearing: May 6, 2009
Filed: June 9, 2009
Effective: July 1, 2009

DEPARTMENT OF AGRICULTURE: WEED AND PEST CONTROL COMMISSION: 12:62:03:01.07.

History-Notice: 35 SDR 223, March 23, 2009
Hearing: April 14, 2009
Filed: June 10, 2009
Effective: June 30, 2009

DEPARTMENT OF PUBLIC SAFETY: DRIVER LICENSING: 61:18:01:01; 61:18:08:01 to 61:18:08:04, inclusive; 61:23:01:04; 61:25:01:01; 61:25:04:01, 61:25:04:07, 61:25:04:18; 61:25:05:01; and 61:26:02:01.

History-Notice: 35 SDR 252, April 27, 2009
Hearing: May 19, 2009
Filed: June 10, 2009
Effective: July 1, 2009

DEPARTMENT OF REVENUE AND REGULATION: REAL ESTATE COMMISSION: 20:69:02:05, 20:69:02:06; 20:69:03:12.01, 20:69:03:16, 20:69:03:17, 20:69:03:20, 20:69:03:22, 20:69:03:22.01, 20:69:03:24, 20:69:03:25; 20:69:04:02, 20:69:04:03, 20:69:04:04, 20:69:04:05, 20:69:04:06, 20:69:04:08; 20:69:05:01; 20:69:06:03; 20:69:10:03; 20:69:11:02.01, 20:69:11:02.02, 20:69:11:04, 20:69:11:05, 20:69:11:06, 20:69:11:07, 20:69:11:08.04, 20:69:11:09, 20:69:11:10, 20:69:11:11.01, 20:69:11:16, 20:69:11:19, 20:69:11:21, 20:69:11:22; 20:69:13:08; and 20:69:14:09.

History-Notice: 35 SDR 237, April 13, 2009
Hearing: May 6, 2009
Filed: June 10, 2009
Effective: July 1, 2009

DEPARTMENT OF EDUCATION: BOARD OF EDUCATION: 24:10:42:26, 24:10:42:27, and 24:10:42:28.

History-Notice: 35 SDR 243, April 20, 2009
 Hearing: May 12-13, 2009
 Filed: June 11, 2009
 Effective: July 1, 2009

DEPARTMENT OF REVENUE AND REGULATION: DIVISION OF INSURANCE: 20:06:13:33 and 20:06:16:03.

History-Notice: 35 SDR 227, March 30, 2009
 Hearing: April 20, 2009
 Filed: June 11, 2009
 Effective: July 1, 2009

DEPARTMENT OF REVENUE AND REGULATION: DIVISION OF INSURANCE: 20:06:40:19 to 20:06:40:22, inclusive.

History-Notice: 35 SDR 237, April 13, 2009
 Hearing: May 6, 2009
 Filed: June 11, 2009
 Effective: July 1, 2009

DEPARTMENT OF REVENUE AND REGULATION: DIVISION OF INSURANCE: 20:06:48:12.

History-Notice: 35 SDR 237, April 13, 2009
 Hearing: May 7, 2009
 Filed: June 11, 2009
 Effective: July 1, 2009

SECRETARY OF STATE: BOARD OF ELECTIONS: 5:02:03:19; 5:02:04:22; 5:02:06:04, 5:02:06:12, 5:02:06:21 to 5:02:06:23, inclusive; 5:02:07:06; 5:02:08:43, 5:02:08:44; 5:02:09:02; 5:02:10:04; 5:02:16:37, 5:02:16:38; 5:02:17:09, 5:02:17:14; 5:02:05:00; 5:02:10:03, 5:02:10:05, and 5:02:10:08.

History-Notice: 35 SDR 233, April 6, 2009
 Hearing: May 7, 2009

Filed: June 11, 2009
 Effective: July 1, 2009

DEPARTMENT OF GAME, FISH AND PARKS: 41:04:01:07; 41:06:12:01; 41:06:26:02; 41:06:28:02; 41:06:43:02; 41:06:47:02; and 41:06:59:02.

History-Notice: 35 SDR 217, March 16, 2009
 Hearing: April 2, 2009
 Filed: June 12, 2009
 Effective: July 2, 2009

DEPARTMENT OF GAME, FISH AND PARKS: 41:03:01:16; 41:03:03:03; 41:06:22:01.01, 41:06:22:02; 41:06:24:01; 41:06:44:04; and 41:06:45:02.

History-Notice: 35 SDR 244, April 20, 2009
 Hearing: May 6, 2009
 Filed: June 12, 2009
 Effective: July 2, 2009

Executive Appointments:

Charlotte Athey, Big Stone City, was reappointed on June 1, 2009, to the **Planning Council on Developmental Disabilities**, effective July 1, 2009, and shall continue until June 30, 2012.

Margot Burton, Rapid City, was reappointed on June 1, 2009, to the **Independent Living Council**, effective July 1, 2009, and shall continue until June 30, 2012.

Matt Cain, Sioux Falls, was appointed on June 1, 2009, to the **Board of Vocational Rehabilitation**, to replace Monte Tschetter, effective July 1, 2009, and shall continue until June 30, 2012.

Matt Cain, Sioux Falls, was appointed on June 1, 2009, to the **Independent Living Council**, to replace Gary Wald, effective July 1, 2009, and shall continue until June 30, 2012.

Sarah Carda, Yankton, was reappointed on

June 1, 2009, to the **Planning Council on Developmental Disabilities**, effective July 1, 2009, and shall continue until June 30, 2012.

Dawn L. Hahn, Humboldt, was appointed on June 1, 2009, to the **Planning Council on Developmental Disabilities**, to replace Jason Harris, effective July 1, 2009, and shall continue until June 30, 2012.

Susan Kornder, Aberdeen, was reappointed on June 1, 2009, to the **Mental Health Planning and Coordination Advisory Council**, effective July 1, 2009, and shall continue until June 30, 2012.

Monte Tschetter, Mitchell, was appointed on June 1, 2009, to the **Independent Living Council**, to replace Josia Fuerst, effective immediately and shall continue until June 30, 2011.

Karen Wiemers, Ph.D., Chamberlain, was appointed on June 1, 2009, to the **Board of Examiners of Psychologists**, to replace Dr. Douglas Wessel, effective July 1, 2009, and shall continue until June 30, 2012.

Deona Gustaf, Sioux Falls, was reappointed on June 8, 2009, to the **Planning Council on Developmental Disabilities**, effective July 1, 2009, and shall continue until June 30, 2012.

Lynn D. Boadwine, Baltic, was reappointed on June 11, 2009, to the **Animal Industry Board**, effective July 1, 2009, and shall continue until June 30, 2013.

Gary Harrington, Huron, was reappointed on June 11, 2009, to the **Board of Barber Examiners**, effective July 1, 2009, and shall continue until June 30, 2012.

Robert H. Johnson, Rapid City, was reappointed on June 11, 2009, to the **Board of Barber Examiners**, effective July 1, 2009, and shall continue until June 30, 2012.

James W. Leafstedt, Alcester, was reappointed on June 11, 2009, to the **Animal Industry Board**, effective July 1, 2009, and shall continue until June 30, 2013.

David Olson, Mitchell, was reappointed on June 11, 2009, to the **South Dakota Board of Accountancy**, effective July 1, 2009, and shall continue until June 30, 2012.

Randy Schaefer, Madison, was reappointed on June 11, 2009, to the **State Board of Regents**, to replace Dr. Richard Belatti, effective immediately and shall continue until March 31, 2015.

Vernon C. Skip VanDerhule, Yankton, was reappointed on June 11, 2009, to the **South Dakota Aeronautics Commission**, effective July 1, 2009, and shall continue until June 30, 2014.

Teresa Marts, Winner, was reappointed on June 12, 2009, to the **South Dakota Crime Victims' Compensation Commission**, effective July 1, 2009, and shall continue until June 30, 2012.

Legislative Appointment:

Hugh Bartels, Watertown, was appointed on June 9, 2009, to the **South Dakota Investment Council**, effective July 1, 2009, and shall continue until June 30, 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

6-22-2009	Treasurer: Investment Council	Amend rules to remove the requirement that the investment council establish at a specific council meeting the date and time for setting the rate for the certificate of deposit program; 35 SDR 277.
6-25-2009	Social Services: Economic Assistance	Amend rules to update the payment schedules for all Temporary Assistance for Needy Families Program (TANF) assistance units; 35 SDR 291.
6-25-2009	Environment and Natural Resources: Board of Water and Natural Resources	Adopt rules to redistrict the director areas of seven water development districts; 35 SDR 291.
6-25-2009	Health: Board of Examiners for Nursing Home Administrators	Amend rules to assist new applicants to understand the requirements; assist staff in providing explanations for all requirements; and assist licensees in securing more compliant continuing education hours; 35 SDR 297.
6-25-2009	Transportation	Amend a speed zone in Minnehaha County on SD Highway 38 in the City of Hartford to extend the length of reduced speed limits to the east; amend a speed zone in Tripp County on US Highways 18/183 in the City of Winner to extend the length of reduced speed limits to the southeast; amend a speed zone in Tripp County on State Trunk Highway 44 in the City of Winner to extend the length of reduced speed limits to the east; adopt a speed zone in Tripp County on the service road adjacent to US Highways 18/183 and SD 44 in the western part of the City of Winner to establish a speed limit of 30 miles per hour; and adopt a speed zone in Tripp County on the service road adjacent to US Highways 18/183 in the southern part of the City of Winner to establish a speed limit of 20 miles per hour; 35 SDR 303.
6-30-2009	Labor: Labor and Management	Update the Workers' Compensation Fee Schedule and Case Management rules; 35 SDR 303.
7-1-2009	Game, Fish and Parks	Amend a Public Water Zoning rule to establish a 100 foot wide "no wake zone" extending from the existing no wake zone on the southwest arm of McCook Lake (Union County) to the extreme southeast corner of the lake; amend East River Deer Hunting Season rules to establish season dates, requirements

		<p>and restrictions, open areas, shooting hours, and number of licenses/tags available; modify the season starting date to begin the Saturday before Thanksgiving; eliminate the 7-day anterless extension following the 16-day regular season, and adjust the 9-day anterless extension to begin the Saturday after Christmas; and eliminate the "Super Unit" (McPherson, Edmunds, Faulk and Spink counties) where unfilled tags are valid for all four units; amend an Antelope Hunting Season rule to establish season dates, requirements and restrictions, open areas, shooting hours, and number of resident and nonresident licenses/tags available; and adjust the boundary for Butte County Units 15A and 15B; amend Custer State Park Antelope Hunting Season and License Forms and Fees rules to reopen the season, establish requirements and restrictions, open areas, and shooting hours; establish season dates to begin the Tuesday following Native American Day in October and running for 9 consecutive days (October 13-21, 2009); establish the number of licenses at 3 "any antelope" and 10 "doe/kid" licenses available only to state residents through the drawing system, and establish the fee for the licenses; remove the "archery only" restriction and allow use of any legal weapon with rifle restrictions to follow the guidelines established in the state antelope hunting season regulations; and not allow hunting within 1320 feet (440 yards) of any numbered Custer State Park road; amend a National Wildlife Refuge Deer Hunting Season rule to establish season dates, requirements and restrictions, open areas, shooting hours, and establish the number of resident and nonresident licenses/tags available on Sand Lake National Wildlife Refuge; amend an Early Fall Canada Goose Hunting Season rule to establish season dates, requirements and restrictions, shooting hours, open area, bag and possession limits; and modify the season ending date from the Friday prior to the last Saturday of September to September 30; and amend a Mountain Lion Hunting Season rule to establish season dates, open area, requirements and restrictions,</p>
--	--	--

		number of resident licenses available; and increase the total mountain lion harvest limit from 35 to 40 and increase the female harvest limit from 15 to 25; 35 SDR 303.
7-16-2009	Environment and Natural Resources: Board of Minerals and Environment	Update the state's existing hazardous waste rules by incorporating updated federal regulations by reference. These updates reflect changes made to the federal hazardous waste rules from July 1, 2007 through June 30, 2008. Changes include amending existing requirements for recycling; clarification of compliance monitoring requirements for hazardous waste combustion operations; and amending requirements for the management of wastewater treatment sludges generated by automobile assembly operations; 35 SDR 352.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, July 28, 2009, in Room 414, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2009 interim: 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>.