

# REGISTER



## South Dakota Legislative Research Council

Volume 33

Monday, 8:00 a.m., June 18, 2007

**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: Abstracters' Board of Examiners:** (June 11, 2007) intends to amend rules to update the various fee schedules and manner for their determination as well as the procedures of the South Dakota Abstracters' Board of Examiners. The general authority for these rules, as cited by the board, is SDCL 36-13-6 and 36-13-25.

A public hearing will be held in Room 412, 4<sup>th</sup> floor, State Capitol, Pierre, South Dakota, on July 9, 2007, at 1:00 p.m. A copy of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Abstracters' Board of Examiners, c/o Peggy Boysen, Secretary-Treasurer, P.O. Box 187, Kennebec, South Dakota 57544. Material sent by mail must reach the board by July 6, 2007, to be considered at the public hearing. 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) 869-2269 at least 48 hours before the hearing.

**Department of Agriculture: Animal Industry Board:** (June 12, 2007) intends to amend rules to add a definition for biological products; specifically state that biologicals must be approved for sale in South Dakota; to limit risk materials being brought into the state by hunters and taxidermists and assure proper disposal; to include federal regulations as a reference for tuberculosis control; to require identification on roping and dogging cattle; to require testing each year for tuberculosis on cattle used for

rodeo/roping purposes; repeal the TB blood test as it has been invalidated as an official test for tuberculosis in cervidae; change and update current dates of reference material; change the accepted date for a valid tuberculosis test from 30 to 60 days; include semen and embryos in health certificate requirements for import; require specific identification on semen and embryo imports; state the time frame for keeping records available; specify reporting requirements for shipping certain poultry and hatching eggs; require the lot number and expiration date of testing material be included on the report; to use the correct term "certificate of veterinary inspection" rather than "health certificate;" specify information to be included on reporting forms; use correct terminology for certificate of veterinary inspection and require proper terminology on certificates; specify that certain forms are kept as records by hatchery operators and dealers; ensure proper terminology is used throughout the rules consistent with the definition section; specify issuance of permits and expiration periods for pullorum testers; include primates in animals regulated by the board; specify time frame for required testing for two diseases; specify further information required to be reported by permittees; extend the valid testing period for 60-90 days for ram epidymitis within the state; to decrease the number of herd tests for accredited status from three to two and include NVSL contract labs as approved; eliminate use of the BTB test; to change the time frames for establishing and renewing accredited law status; to allow lab as approved by the board for state lab approval and clarify definition of official identification; to allow two additional tests to be approved for brucellosis testing; to extend the period for certified free status; to allow the re-

test of additions to a certified herd to be tested along with the next herd test; to provide for tissue in addition to the brain to be tested for CWD; to decrease the eligible age for CWD testing from 16 to 12 months; to extend the closed herd status on imported cervidae from three to five years; to eliminate restrictions on funding assistance for John's control efforts; to provide for the approval of newer testing methods; and to allow waiver of requirements for nonvirgin nonpregnant females. The general authority for these rules, as cited by the board, is SDCL 1-26-1, 40-1-25, 40-3-9, 40-3-14, 40-3-25, 40-3-26, 40-5-5.1, 40-5-8, 40-5-8.6, 40-7-20.1, 40-15-14, 40-15-36, and 40-15A-8.2.

A public hearing will be held at the Animal Industry Board Office, 411 South Fort Street, Pierre, South Dakota, on Tuesday, July 10, 2007, at 8:30 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Animal Industry Board Office, 411 South Fort Street, Pierre, South Dakota 57501. Material sent by mail must reach the Board Office by Monday, July 9, 2007, 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) 773-3321 at least 48 hours prior to the hearing.

#### **DECLARATORY RULING:**

The South Dakota Commission on Gaming has issued a Declaratory Ruling in the matter of B Y Development dated June 11, 2007. B Y Development asked the Commission to interpret SDCL 42-7B-28 concerning the use of promotional money known as Cadillac Cash and the calculation of gross revenue for tax purposes under the statute. After considering the evidence, the Commission determined that promotional money such as Cadillac Cash shall be counted for the purposes of calculating gaming tax pursuant to SDCL 42-7B-28. The Commission also concluded that all of the promotional money shall be reported as gross

revenue or adjusted gross proceeds regardless of any jackpots attributable to the use of Cadillac Jack's promotional money.

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

**SECRETARY OF STATE: BOARD OF ELECTIONS:** 5:02:03:21, 5:02:03:22; 5:02:06:01, 5:02:06:01.02, 5:02:06:03, 5:02:06:03.01, 5:02:06:13; 5:02:08:00.01, 5:02:08:00.04, 5:02:08:00.05, 5:02:08:01, 5:02:08:05, 5:02:08:05.01, 5:02:08:07, 5:02:08:08, 5:02:08:09, 5:02:08:20; 5:02:09:01.02, 5:02:09:02, 5:02:09:04.03, 5:02:09:04.04, 5:02:09:05, 5:02:09:13, 5:02:09:22; 5:02:10:01.03, 5:02:10:05, 5:02:10:08; 5:02:16:17.01, and 5:02:16:17.02.

History-Notice: 33 SDR 171, April 16, 2007  
Hearing: May 8, 2007  
Filed: June 11, 2007  
Effective: July 1, 2007

**DEPARTMENT OF REVENUE AND REGULATION: DIVISION OF INSURANCE:** 20:06:08:40, 20:06:08:41, Appendix D; 20:06:21:01, 20:06:21:01.01, 20:06:21:01.02, 20:06:21:31, 20:06:21:49, 20:06:21:58, 20:06:21:73 to 20:06:21:86, inclusive, Appendix F, Appendix I, Appendix K, Appendix L; 20:06:28:01, 20:06:28:02, 20:06:28:04, 20:06:28:05, 20:06:28:08; and 20:06:49:01.

History-Notice: 33 SDR 165, April 9, 2007  
Hearing: April 25, 2007  
Filed: June 12, 2007  
Effective: July 2, 2007

**DEPARTMENT OF TRANSPORTATION:** 70:01:02:22(5).

History-Notice: 33 SDR 165, April 9, 2007  
Hearing: April 26, 2007  
Filed: June 12, 2007  
Effective: July 2, 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 Revenue and Regulation, and the Department of Labor for Article 47:03.

**REMINDER OF HEARINGS SCHEDULED**

6-27-2007	Health	Amend rules to change the form used to gather hospital charge data from the Health Care Financing Administration Uniform Bill-92 Form to the new standard of Centers for Medicare and Medicaid Services Uniform Bill-04; 33 SDR 217.
7-9-2007	Revenue and Regulation: Abstractors’ Board of Examiners	Amend rules to update the various fee schedules and manner for their determination as well as the procedures of the South Dakota Abstractors’ Board of Examiners; 33 SDR 229.
7-10-2007	Agriculture: Animal Industry Board	Amend rules to add a definition for biological products; specifically state that biologicals must be approved for sale in South Dakota; to limit risk materials being brought into the state by hunters and taxidermists and assure proper disposal; to include federal regulations as a reference for tuberculosis control; to require identification on roping and dogging cattle; to require testing each year for tuberculosis on cattle used for rodeo/roping purposes; repeal the TB blood test as it has been invalidated as an official test for tuberculosis in cervidae; change and update current dates of reference material; change the accepted date for a valid tuberculosis test from 30 to 60 days; include semen and embryos in health certificate requirements for import; require specific identification on semen and embryo imports; state the time frame for keeping records available; specify reporting requirements for shipping certain poultry and hatching eggs; require the lot number and expiration date of testing material be included on the report; to use the correct term “certificate of veterinary inspection” rather than “health certificate;” specify information to be included on reporting forms; use correct terminology for certificate of veterinary inspection and require proper terminology on certificates; specify that certain

		<p>forms are kept as records by hatchery operators and dealers; ensure proper terminology is used throughout the rules consistent with the definition section; specify issuance of permits and expiration periods for pullorum testers; include primates in animals regulated by the board; specify time frame for required testing for two diseases; specify further information required to be reported by permittees; extend the valid testing period for 60-90 days for ram epidymitis within the state; to decrease the number of herd tests for accredited status from three to two and include NVSL contract labs as approved; eliminate use of the BTB test; to change the time frames for establishing and renewing accredited law status; to allow lab as approved by the board for state lab approval and clarify definition of official identification; to allow two additional tests to be approved for brucellosis testing; to extend the period for certified free status; to allow the re-test of additions to a certified herd to be tested along with the next herd test; to provide for tissue in addition to the brain to be tested for CWD; to decrease the eligible age for CWD testing from 16 to 12 months; to extend the closed herd status on imported cervidae from three to five years; to eliminate restrictions on funding assistance for Johne’s control efforts; to provide for the approval of newer testing methods; and to allow waiver of requirements for nonvirgin nonpregnant females; 33 SDR 229.</p>
<p>7-16-2007</p>	<p>Revenue and Regulation: Appraiser Certification Program</p>	<p>Amend rules to clarify that continuing education is not required during inactive status; to return to active status from inactive status an appraiser must complete all continuing education that would have been required if the appraiser was on an active status; establish requirements for registering supervisors for appraisal experience credit and removal of a supervisor; require a supervisor to be in good standing; allow applicants that have moved to the state of South Dakota that are licensed or certified by another state to be deemed to have met the Appraiser Qualifications Board criteria and be issued an equivalent appraiser classification; a candidate</p>

		<p>that does not complete the examination within the specified time limit would have to submit another application and the fee before being approved to sit for the examination again; delete language regarding complete appraisal; replace introduction to computers, word processing/spreadsheets with computer science required for general education for certified appraisers; remove the word “deferred” and replace with “not required” for continuing education requirements; establish when continuing education is not required by first time applicants; delete unnecessary word; delete mandatory fee requirement for acceptable courses without state review; clarify requirements for acceptable distance continuing education; and require written examination for distance qualifying education; 33 SDR 225.</p>
<p>7-19-2007</p>	<p>Environment and Natural Resources: Board of Minerals and Environment</p>	<p>Amend rules to update existing hazardous waste rules by incorporating the federal regulations by reference. Changes to the rules include clarifications to the used oil management standards; special provision for National Environmental Performance Track Program companies; amends existing national emission standards for permitted hazardous waste treatment, storage and disposal facilities; includes certain wastes generated by the dye, pigment, food, drug and cosmetic colorant manufacturing industries as hazardous wastes; clarifies requirements for the management of mercury-containing equipment; modifies requirements for the hazardous waste manifest system; and establishes requirements for the safe management of used electronic devices that contain cathode ray tubes; 33 SDR 205.</p>

**RULES REVIEW COMMITTEE MEETINGS**

The next meeting of the Interim Rules Review Committee will be held Tuesday, August 21, 2007, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2007 interim: September 27, December 4, and January 7, 2008.

**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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