

REGISTER

South Dakota Legislative Research Council



Volume 35

Monday, 8:00 a.m., July 14, 2008

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

Department of Health: Board of Chiropractic Examiners: (July 7, 2008) intends to amend and adopt rules to clarify requirements for declaratory rulings; approve accreditation from the Council of Chiropractic Education International; update application and reciprocity requirements; update renewal application requirements; update actions which may warrant sanctions; clarify procedures for formal hearings and sanctions; clarify chiropractic radiography application process and procedures for formal hearing; update addresses to obtain peer review reference guides; and establish rules for chiropractic assistants. The general authority for these rules, as cited by the board, is SDCL 36-5-2.2, 36-5-4, 36-5-13, 36-5-15.2, 36-5-15.3, 36-5-16, 36-5-16.1, 36-5-19, 36-5-20, 36-5-21, 36-5-24, 36-5-25, 36-5-27, and 36-5-28.

A public hearing will be held in the meeting room of the Days Inn, 1506 South Burr, Mitchell, South Dakota, on July 29, 2008, at 6:30 p.m. Copies of the proposed rules may be obtained without charge from and written comments sent to South Dakota Board of Chiropractic Examiners, 407 Belmont Avenue, Yankton, South Dakota 57078. Written comments must be received by July 25, 2008, to be considered. Copies of the proposed rules may also be obtained without charge at the board's website: <http://chiropractic.sd.gov>. 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) 668-9017 at least forty-eight hours before the hearing.

Department of Revenue and Regulation:

Business Tax: (July 7, 2008) intends to amend rules to add the phrase "products transferred electronically;" update laws regulation is based on; update filing requirements; repeal a definition that is now in statute; repeal outdated regulations; comply with the Streamlined Sales Tax Agreement; and repeal outdated and unnecessary regulations. The general authority for these rules, as cited by the department, is SDCL 10-45-14.11, 10-45-47.1, 10-45-108, 10-45D-13, 10-46-15.6, 10-46-35.1, 10-46-67, 10-46A-19, 10-46B-18, 10-46E-11, 10-52-4, and 10-52A-7.

A public hearing will be held in the Anderson Building, Room 109, 445 E. Capitol Avenue, Pierre, South Dakota, on July 31, 2008, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to the Department of Revenue and Regulation, Legal Division, 445 East Capitol Avenue, Pierre, South Dakota 57501-3185, or by emailing John.Richter@state.sd.us. Copies of the rules are also available at the department's website: <http://www.state.sd.us/drr2/rulesBT2008.htm>. Material sent by mail must reach the department by August 11, 2008, 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 48 hours before the hearing.

Department of Revenue and Regulation:

Division of Motor Vehicle: (July 7, 2008) intends to repeal rules that are no longer necessary because South Dakota joined a national program called the Unified Carrier Registration (UCR); repeal rules to address law

changes; repeal a rule no longer needed and add new rules concerning the initial and renewal of staggered licensing of boat dealer and dealers; amend requirements in conducting of business for dealers within the state; repeal rules no longer needed concerning dealer permit and create a new rule to address all the permits; repeal unnecessary rules; and repeal outdated and unnecessary regulations. The general authority for these rules, as cited by the department, is SDCL 10-1-46, 32-3-57, 32-6B-14, 32-6B-30, 32-6B-60, 32-6C-17, 32-7A-14.1, 32-7B-8, 32-7B-18, 32-7B-20, 32-10-3, and 49-28-33.

A public hearing will be held in the Anderson Building, Room 109, 445 E. Capitol Avenue, Pierre, South Dakota, on July 31, 2008, at 1:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to the Department of Revenue and Regulation, Legal Division, 445 East Capitol Avenue, Pierre, South Dakota 57501-3185, or by emailing John.Richter@state.sd.us. Copies of the rules are also available at the department's website: <http://www.state.sd.us/drr2/rulesDMV2008.htm>. Material sent by mail must reach the department by August 11, 2008, 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 48 hours before the hearing.

Department of Social Services: Medical Services: (July 8, 2008) intends to delete from rules and move to the Department's website the lists of covered services, procedure codes, and rates of payment for the following: DRG-exempt hospital psychiatric units, outpatient laboratory services, outpatient surgical procedures provided by a hospital, surgical procedures provided by an ambulatory surgical center, medical equipment, mental health services provided by an independent practitioner, nutritional therapy, nutritional supplements, enteral nutritional therapy, parenteral nutritional therapy, and diabetes education services and to move into rule the

procedures currently being used by the Department which allows a provider to request a review of an established rate for possible adjustment or to request the inclusion or exclusion of a particular procedure code. The general authority for these rules, as cited by the department, is SDCL 28-6-1 and 28-6-1.1.

A public hearing will be held in Conference Room #1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on July 30, 2008, at 10:30 a.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 August 11, 2008, 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.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

CORRECTION -- DEPARTMENT OF LABOR: SOUTH DAKOTA RETIREMENT SYSTEM: 62:01:01:01; 62:01:03:04, 62:01:03:05; 62:01:04:06, 62:01:04:11, 62:01:04:11.01; 62:01:06:01, 62:01:06:03, 62:01:06:05, 62:01:06:06; 62:01:07:03, 62:01:07:08; 62:01:09:01 to 62:01:09:06, inclusive; 62:03:05:06; 62:03:06:03, 62:03:06:03.02; 62:04:01:02.

History-Notice: 34 SDR 233, March 17, 2008
Hearing: April 3, 2008

Filed: May 13, 2008
Effective: June 2, 2008

Executive Appointment:

John Day, Yankton, was reappointed on July 8, 2008, to the **State Capitol Complex Restoration and Beautification Commission**, effective immediately and shall continue until June 30, 2012.

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

7-17-2008	Secretary of State: Election Board	Amend rules to amend the voter registration form to include the change for the maximum penalty for perjury; amend the address for where the voter registration address verification notice is sent; amend the municipal notice of special election to include wording for a county to use as their notice of special election; amend the personal identification affidavit to include the change for the maximum penalty for perjury; add shaded boxes for the instructions to voters on the general election ballot; add the optical scan ballot format to the primary ballot layout; amend the guidelines for acceptance of petitions to remove the date requirement which is clarified in another rule; amend the requirements for counting signatures on petitions to prohibit more than one circulator on a petition sheet; amend the declaration on the partisan nominating petition to include county commissioner under the residency requirement; amend the declaration on the independent nominating petition to include county commissioner under the residency requirement; amend the water development district director nominating petition to include the term length the candidate is running for; amend the nominating petition for road or sanitary district trustee to the nominating petition for special district trustee; amend the requirement of paper seals on the ballot box; repeal the Presidential primary ballot format; add petition format for consumers power
-----------	------------------------------------	--

		district director; and add an oath of recount board; 34 SDR 329.
7-21-2008	Education: Board of Education	Amend a Career and Technical Education rule to utilize a better and consistent accountability system for the South Dakota Technical Institutes; amend Early Intervention Program rules to provide clarity on the Birth to Three Program, eligibility changes and the posting of rate changes on the South Dakota Department of Education website; and amend Accreditation and School Improvement rules to require that all non-certified administrators will need to have a "plan of intent" on file indicating their intention to become properly certified within three years of their date of hire; 34 SDR 343.
7-29-2008	Public Safety: Office of Weights and Measures	Amend rules to adopt the 2005 editions of the National Institute of Standards and Technology (NIST) handbooks 44, 133 and 130; to modify the fee structure for conducting heavy scales inspections, retail device inspections, and calibrations in the State metrology laboratory; and to adopt the 2005 Annual Book of the American Society for Testing and Materials Standards for petroleum quality; 34 SDR 316.
7-29-2008	Health: Board of Chiropractic Examiners	Amend or adopt rules to clarify requirements for declaratory rulings; approve accreditation from the Council of Chiropractic Education International; update application and reciprocity requirements; update renewal application requirements; update actions which may warrant sanctions; clarify procedures for formal hearings and sanctions; clarify chiropractic radiography application process and procedures for formal hearing; update addresses to obtain peer review reference guides; and establish rules for chiropractic assistants; 35 SDR 9.
7-30-2008	Social Services: Economic Assistance	Amend Low Income Energy Assistance Program (LIEAP) rules to reduce the amount payable under LIEAP when a household's rent includes the cost of heat; allow the Department to make adjustments to a household's LIEAP benefit amount until the benefit is paid; and extend the time during which a utility company can use meter readings for energy supplied to households eligible for LIEAP assistance; amend an Emergency Crisis Intervention

		Program (ECIP) rule to extend the deadline for applying for funds under ECIP; 34 SDR 343.
7-30-2008	Social Services: Medical Services	Delete from rules and move to the Department's website the lists of covered services, procedure codes, and rates of payment for the following: DRG-exempt hospital psychiatric units, outpatient laboratory services, outpatient surgical procedures provided by a hospital, surgical procedures provided by an ambulatory surgical center, medical equipment, mental health services provided by an independent practitioner, nutritional therapy, nutritional supplements, enteral nutritional therapy, parenteral nutritional therapy, and diabetes education services and to move into rule the procedures currently being used by the Department which allows a provider to request a review of an established rate for possible adjustment or to request the inclusion or exclusion of a particular procedure code; 35 SDR 10.
7-31-2008	Revenue and Regulation: Business Tax	Amend rules to add the phrase "products transferred electronically;" update laws regulation is based on; update filing requirements; repeal a definition that is now in statute; repeal outdated regulations; comply with the Streamlined Sales Tax Agreement; and repeal outdated and unnecessary regulations; 35 SDR 9.
7-31-2008	Revenue and Regulation: Division of Motor Vehicles	Repeal rules that are no longer necessary because South Dakota joined a national program called the Unified Carrier Registration (UCR); repeal rules to address law changes; repeal a rule no longer needed and add new rules concerning the initial and renewal of staggered licensing of boat dealer and dealers; amend requirements in conducting of business for dealers within the state; repeal rules no longer needed concerning dealer permit and create a new rule to address all the permits; repeal unnecessary rules; and repeal outdated and unnecessary regulations; 35 SDR 9.
9-18-2008	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, 2006 through June 30, 2007.

		Changes include establishing a standardized permit for hazardous waste storage facilities; and a variety of corrections that encompass printing omissions, typographical errors, misspellings and erroneous or missing citations and references throughout the rules; 34 SDR 278.
--	--	---

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, August 19, 2008, in LCR 1 and 2, Third Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2008 interim: September 23, December 2, and January 12, 2009.

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>.