

REGISTER



South Dakota Legislative Research Council

Volume 34

Monday, 8:00 a.m., August 27, 2007

NOTICES OF PROPOSED RULES: (None)

DECLARATORY RULING:

The South Dakota Lottery Commission has filed a declaratory ruling dated June 15, 2007, which provides details concerning the operation of the "Dakota Raffle".

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF GAME, FISH AND

PARKS: 41:04:02:39, 41:04:02:43; 41:06:02:03; 41:06:14:01, 41:06:14:02, 41:06:14:02.01; 41:06:19:02 to 41:06:19:04, inclusive; 41:06:20:02; 41:06:61:02, 41:06:61:03, and 41:06:61:06.

History-Notice: 33 SDR 211, May 21, 2007
Hearing: June 7, 2007
Filed: August 21, 2007
Effective: September 10, 2007

DEPARTMENT OF GAME, FISH AND

PARKS: 41:06:00.01:02, 41:06:02:03; 41:06:16:02.01, 41:06:16:07, 41:06:16:09; 41:08:01:12; 41:09:06:21, and 41:09:06:23.

History-Notice: 34 SDR 32, July 23, 2007
Hearing: August 9, 2007
Filed: August 21, 2007
Effective: September 10, 2007

**DEPARTMENT OF REVENUE AND
REGULATION: SOUTH DAKOTA**

LOTTERY COMMISSION: 48:03:14:01 to 48:03:14:07, inclusive.

History-Notice: 33 SDR 205, May 14, 2007
Hearing: June 15, 2007
Filed: August 22, 2007
Effective: September 11, 2007

**DEPARTMENT OF REVENUE AND
REGULATION: APPRAISER
CERTIFICATION PROGRAM:**

20:14:03:05, 20:14:03:06; 20:14:04:12, 20:14:04:12.01, 20:14:04:13; 20:14:05:01.01, 20:14:05:02.00, 20:14:05:03.01, 20:14:05:04, 20:14:05:07.02, 20:14:05:08.01; 20:14:13:01, 20:14:13:01.01, 20:14:13:03.01, 20:14:13:05.01, and 20:14:13:05.04.

History-Notice: 33 SDR 225, June 11, 2007
Hearing: July 16, 2007
Filed: August 22, 2007
Effective: September 11, 2007

PUBLIC UTILITIES COMMISSION:

20:10:24:02, 20:10:24:04.02, 20:10:24:04.05; 20:10:24:05; 20:10:32:03, 20:10:32:06.01, 20:10:32:10, 20:10:32:29, 20:10:32:31.01, 20:10:32:54, 20:10:32:55; 20:10:33:22; 20:10:34:02.02, and 20:10:34:10.

History-Notice: 34 SDR 11, July 9, 2007
Hearing: August 2, 2007
Filed: August 22, 2007
Effective: September 11, 2007

DEPARTMENT OF SOCIAL SERVICES:

MEDICAL SERVICES: 67:16:01:25 to 67:16:01:27, inclusive; 67:16:02:01, 67:16:02:01.01, 67:16:02:03 to 67:16:02:03.03, inclusive, 67:16:02:05, 67:16:02:05.01, 67:16:02:05.08, 67:16:02:05.11, 67:16:02:05.13, 67:16:02:05.14, 67:16:02:05.15, 67:16:02:13, 67:16:02:15, 67:16:02:16, 67:16:02:16.01, 67:16:02:17, 67:16:02:19, Appendix A, Appendix B, Appendix C, and Appendix D; 67:16:03:01; 67:16:09:03.01; 67:16:12:03, 67:16:12:05, 67:16:12:06, 67:16:12:07; 67:16:13:09; 67:16:14:01; 67:16:28:10; 67:16:29:09, 67:16:29:11, and 67:16:44:10.

History-Notice: 34 SDR 1, July 2, 2007
 Hearing: July 27, 2007
 Filed: August 23, 2007
 Effective: September 12, 2007

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

74:28:21:01, 74:28:21:02; 74:28:22:01; 74:28:23:01; 74:28:24:01; 74:28:25:01, 74:28:25:03, 74:28:25:04, 74:28:25:05; 74:28:26:01; 74:28:27:01; 74:28:28:01, 74:28:28:03, 74:28:28:04, 74:28:28:05; 74:28:30:01; and 74:28:33:01.

History-Notice: 33 SDR 205, May 14, 2007
 Hearing: July 19, 2007
 Filed: August 24, 2007
 Effective: September 13, 2007

DEPARTMENT OF TOURISM AND STATE DEVELOPMENT: BOARD OF ECONOMIC DEVELOPMENT:

68:02:01:01 to 68:02:01:55, inclusive; 68:02:02:01 to 68:02:02:36, inclusive; 68:02:03:01 to 68:02:03:44, inclusive; 68:02:04:01 to 68:02:04:22, inclusive; 68:02:05:01 to 68:02:05:15, inclusive; and 68:02:06:01 to 68:02:06:19, inclusive.

History-Notice: 34 SDR 1, July 2, 2007
 Hearing: July 19, 2007

Filed: August 24, 2007
 Effective: September 13, 2007

Attorney General Appointments:

The Assistant Attorney General appointment of **Joan Boos Schueller** In the Matter of the Nurse Aid Registry Status of Michael James Neyems was revoked on August 14, 2007.

The following were appointed Assistant Attorney General on July 31, 2007, in connection with the Sturgis Motorcycle Rally effective July 30, 2007, to August 19, 2007:

Lt. Antonio "Tony" Bartolome, Jr.
Sergeant Robert J. Kenney
CFE Bob Feinen
Tom Allen
Senior Special Agent Michael E. Joiner
Detective Robert Belshay
Agent Kirby Lewis
Christopher Todd Schaefer
Mike Walsh.

Joan Boos Schueller, Pierre, was appointed on August 13, 2007, as Special Assistant Attorney General to represent the Department of Health in several cases. Copies of the appointments are on file with the Secretary of State.

Executive Appointments:

LeRoy C. Anderson, Dell Rapids, was reappointed on August 17, 2007, to the **South Dakota Snowmobile Advisory Council**, effective immediately and shall continue until June 30, 2010.

Lynn Deibert, Herried, was reappointed on August 17, 2007, to the **South Dakota Weed and Pest Control Commission**, effective immediately and shall continue until June 1, 2010.

Chet Edinger, Mitchell, was appointed on August 17, 2007, to the **Wheat Utilization Research and Marketing Development**

Commission, to replace Gregg Krebsbach, effective August 15, 2007, and shall continue until June 30, 2010.

William Ferguson, Witten, was reappointed on August 17, 2007, to the **Wheat Utilization Research and Marketing Development Commission**, effective August 15, 2007, and shall continue until June 30, 2010.

David Kennedy, Spearfish, was reappointed on August 17, 2007, to the **South Dakota Snowmobile Advisory Council**, effective immediately and shall continue until June 30, 2010.

Al Nagel, Aberdeen, was reappointed on August 17, 2007, to the **South Dakota Snowmobile Advisory Council**, effective immediately and shall continue until June 30, 2010.

Dale Patterson, Wall, was appointed on August 17, 2007, to the **South Dakota Weed and Pest Control Commission**, to replace Donald Fletcher, effective August 17, 2007, and shall continue until June 1, 2010.

Glen Barber, Rapid City, was reappointed on August 21, 2007, to the **Workers' Compensation Advisory Council**, effective immediately and shall continue until June 30, 2010.

Linda Biffert, Volga, was reappointed on August 21, 2007, to the **Independent Living Council**, effective immediately and shall continue until June 30, 2010.

Ryan Green, Sioux Falls, was reappointed on August 21, 2007, to the **Independent Living Council**, effective immediately and shall continue until June 30, 2010.

Carol Hinderaker, Watertown, was reappointed on August 21, 2007, to the **Workers' Compensation Advisory Council**, effective immediately and shall continue until June 30, 2010.

Jason Lorang, Sioux Falls, was appointed on August 21, 2007, to the **Independent Living Council**, to replace Patrick Czerny, effective August 20, 2007, and shall continue until June 30, 2010.

Larry Puthoff, Sioux Falls, was appointed on August 21, 2007, to the **Independent Living Council**, to replace Thomas Kober, effective August 17, 2007, and shall continue until June 30, 2010.

Randy Stainbrook, Rapid City, was reappointed on August 21, 2007, to the **Workers' Compensation Advisory Council**, effective immediately and shall continue until June 30, 2010.

Executive Order:

The Governor has signed **Executive Order 2007-20** dated August 20, 2007, which declares that a state of emergency exists due to the heavy rainfall, flooding and damaging hail.

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

8-29-2007	Health: Board of Massage Therapy	Amend rules to lower the license fee, decrease the continuing education hours required,
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		eliminate the audit of continuing education records, create an inactive licensure status, and clarify other rules; 34 SDR 55.
9-6-2007	Revenue and Regulation: Property and Special Taxes	Amend rules to update manuals to current versions and repeal a rule that is no longer necessary; 34 SDR 56.
9-6-2007	Agriculture: South Dakota Pulse Council	Adopt rules to establish the election procedures for the council members of the South Dakota Pulse Council. Criteria being considered are nomination, qualifications, notice of vacancy, certification of candidates, election process, ballots, voter eligibility, certification of election, canvas of election and terms of office; 34 SDR 61.
9-10-2007	Labor: Board of Technical Professions	Amend rules to clarify, such as adding definitions, adding a new section for a business waiver, correcting mistakes, adding NCARB's "Broadly Experienced Architect", adding NCEES policy section, request for disabled examinees to make accommodations from exam vendors, and late renewals are to submit reinstatement applications; 34 SDR 55.
9-11-2007	Health: Board of Medical and Osteopathic Examiners	Adopt rules to clarify to licensees the following: physician fees chargeable by the board; supervision requirements between the physician assistant and the supervising physician and physician assistant fees chargeable by the board; physical therapist and physical therapist assistant fees chargeable by the board; athletic trainer continuing education requirements; and occupational therapist and occupational therapy assistance continuing education requirements; 34 SDR 61.
9-12-2007	Revenue and Regulation: Commission on Gaming	Amend Racing Rules to define the terms "independent real time monitoring system" and "pari-mutuel ticket" under the multi-jurisdictional hub account wagering rules; set forth the requirements to be maintained within all totalizator rooms in multi-jurisdictional totalizator hub operations; require that computer systems at hubs be supported by an uninterruptible power supply to allow for system shutdown if power failures occur; require that the totalizator system utilized by the hub be capable of transmitting data in real time to an independent real time monitoring system; set forth the requirement of certain end-of-day reports, including balance report

		<p>for wagering devices, wagering summary report for every pool and for each race, system balance report comparing pool and paid out totals, money room balance report showing cash added and subtracted from beginning day's balance, and IRS report showing winner's social security number, ticket number amount won and taxes withheld; require hubs to produce any reports requested by the Commission within 72 hours after the receipt of such request – the reports may include, but are not limited to, odds progression report, ticket and transaction history report, terminal history report, outstanding ticket report, outstanding tickets cashed report, manually cashed tickets report, canceled tickets report, network balance report, teller inquiry report, wagering report, account history report, inter-track wager report, ticket history report and terminal history report, pool transmission report, and special reports; require hubs to produce daily logs to the Commission which include at a minimum: a teller/machine history log, ticket history log, user terminal log, system error log, system journal log, and account history log; and require hub personnel to maintain off-line logs which include at a minimum: system incident log, totalizator room access log and totalizator maintenance log; amend Gaming Rules to allow licensees the discretion to conduct game tournaments on dates of their choosing for tournaments with buy-ins or entry fees of \$50 or less per player; exclude mandatory gratuities paid to licensed dealers from the adjusted gross proceeds of tournaments; eliminate the requirement that licensees conducting tournaments file reports within 48 hours of the conclusion of the tournament except for those licensees conducting tournaments which retain \$250 or more; allow licensees to utilize automatic clearing houses for electronic funds transfers on check cashing; repeal standard financial statement requirements; and update requirements of audited financial statements for licensed operators and route operators; 34 SDR 61.</p>
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9-19-2007	Environment and Natural Resources: Board of Minerals and Environment	Amend a rule to change the Underground Injection Control Class II Permits to allow injection at a pressure that may fracture the injection zone but not the confining zone; 34 SDR 55.
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RULES REVIEW COMMITTEE MEETINGS

The next regular meeting of the Interim Rules Review Committee will be held Thursday, September 27, 2007, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2007 interim: 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.