

REGISTER



South Dakota Legislative Research Council

Volume 33

Tuesday, 8:00 a.m., September 5, 2006

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

Department of Labor: South Dakota Board of Accountancy: (August 28, 2006) has filed rules to update the references cited and to include acceptable experience gained prior to sitting for the Uniform CPA Examination. The general authority for these rules, as cited by the board, is SDCL 36-20B-12, 36-20B-13, 36-20B-15, 36-20B-18, and 36-20B-19.

A public hearing will be held in Conference Room A of the Western Dakota Technical Institute, 800 Mickelson Drive, Rapid City, South Dakota, on October 6, 2006, at 10:00 a.m. (MST). Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Accountancy, 301 E. 14th Street, #200, Sioux Falls, South Dakota 57104 or by calling (605) 367-5770. Materials sent by mail must reach the Board of Accountancy office on or before October 4, 2006, 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) 367-5770 at least 48 hours before the hearing.

Department of Agriculture: South Dakota Pulse Council: (August 29, 2006) has filed rules to establish guidelines for the Pulse crop check-off. The general authority for these rules, as cited by the department, is SDCL 38-34-1, 38-34-3, and 38-34-8.

A public hearing will be held in the large Conference Room, first floor, Foss Building,

523 East Capitol Avenue, Pierre, South Dakota, on September 29, 2006, at 1:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to South Dakota Department of Agriculture, 523 E. Capitol Avenue, Pierre, South Dakota 57501. Material sent by mail must reach the department by September 27, 2006, 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) 773-3375 at least 48 hours before the public hearing.

Secretary of State: Board of Finance: (August 30, 2006) intends to amend rules to increase the in-state per diem rates for lodging provided to state employees traveling for official state business, to clarify that per diem rates currently enumerated apply during out of country travel and receipts for meals expenses incurred during out of country travel are not required, and to repeal a rule limiting the amount for apartment rent in lieu of lodging. The general authority for these rules, as cited by the board, is SDCL 3-9-1 and 3-9-2.

A public hearing will be held in the Secretary of State's office Room 204, 2nd floor, State Capitol, Pierre, South Dakota, on September 19, 2006, at 2:00 p.m. CDT. Copies of the proposed rules may be obtained without charge from and written comments sent to the Board of Finance, c/o Secretary of State, 500 E. Capitol, Pierre, South Dakota 57501. Copies of the proposed rules may also be obtained at <http://sdsos.gov/finance>. Material sent by mail must be received by September 29, 2006, 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) 773-3537 at least 48 hours before the hearing.

Department of Transportation: (August 31, 2006) intends to amend a speed zone in Potter County on US Highway 212 in the City of Gettysburg to reduce speed limits for traffic entering the community and along the areas of development and amend a rule to allow for the addition of a third service type on panel or supplemental panel informational, directional signs. The general authority for these rules, as cited by the department, is SDCL 31-29-80.1 and 32-25-7.

A public hearing will be held in the commission room of the Becker/Hansen Building, 700 E. Broadway Avenue in Pierre, South Dakota, on September 28, 2006, at 9:05 a.m. CDT. 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 September 27, 2006, 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) 773-3265 at least 48 hours before the hearing.

Department of Public Safety: Office of the State Fire Marshal: (August 31, 2006) intends to amend rules to change all references made to the Department of Commerce and Regulation to the Department of Public Safety, and adopt the 2003 edition of the International Building, Fire, and Mechanical Codes as fire safety standards. The general authority for these rules, as cited by the department, is SDCL 13-25-2, 34-29B-2, and 34-38-35.

A public hearing will be held in the second floor Conference Room, Public Safety Building, Pierre, South Dakota, on October 3, 2006, at 3:00 p.m. A copy of the proposed rules may be

obtained without charge from and written comments sent to the Department of Public Safety, Office of the State Fire Marshal, 118 West Capitol Avenue, Pierre, South Dakota 57501-2036. Written comments must be received by the State Fire Marshal's Office by October 3, 2006, to be considered. Persons who have special needs for which the office can make arrangements are asked to call (605) 773-3178 at least 48 hours before the hearing.

Department of Public Safety: Driver Licensing Program: (September 1, 2006) intends to amend rules to change the Department name from Commerce and Regulation to Public Safety; prohibit an applicant who has made a fraudulent application for a driver license or identification card from obtaining such document until the Department Secretary deems it appropriate; revise rules regarding issuance of restricted licenses (work and school permits); revise rules regarding commercial driver licenses to reflect adoption of current federal regulation and to revise requirements for third party tester applicants; clarify language regarding commercial disqualifications; change reference to statutes that have been moved from one chapter to a different chapter; repeal the fees for the sale of driver license lists and clarify language regarding vision standards needed to obtain a driver license. The general authority for these rules, as cited by the department, is SDCL 1-27-1, 32-12-3.2, 32-12-4.5, 32-12-49, 32-12-49.4, 32-12A-10, 32-12A-37, 32-12A-48, and 32-23-11.

A public hearing will be held in the second floor Conference Room, Public Safety Building, 118 West Capitol Avenue, Pierre, South Dakota, on September 28, 2006, at 9:30 a.m. A copy of the proposed rules may be obtained without charge from and written comments sent to the Department of Public Safety, Driver Licensing Program, 118 West Capitol Avenue, Pierre, South Dakota 57501-2000. Written comments must be received by the Driver Licensing Program by October 8, 2006, to be considered. Persons who have special needs for which the

office can make arrangements are asked to call (605) 773-4123 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATES OFFICE:

DEPARTMENT OF HEALTH: BOARD OF NURSING: 20:48:03:01, 20:48:03.01:01, 20:48:03:07, 20:48:03:08; 20:48:04:01; 20:48:05:01 and 20:48:05:05.

History-Notice: 32 SDR 209, May 30, 2006
Hearing: June 22, 2006
Filed: August 23, 2006
Effective: September 12, 2006

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: BOARD OF MINERALS AND ENVIRONMENT: 74:36:09:01 to 74:36:09:03, inclusive; and 74:36:19:01 to 74:36:19:15, inclusive.

History-Notice: 32 SDR 231, June 26, 2006
Hearing: July 20, 2006
Filed: August 29, 2006
Effective: September 18, 2006

DEPARTMENT OF GAME, FISH AND PARKS: 41:03:01:19; 41:06:21:01, 41:06:21:02, 41:06:21:04; 41:06:23:01 to 41:06:23:03, inclusive, 41:06:23:05; 41:06:50:02; 41:09:01:04.01, and 41:09:01:04.02.

History-Notice: 32 SDR 224, June 19, 2006
Hearing: July 6 & 7, 2006
Filed: August 29, 2006
Effective: September 18, 2006

DEPARTMENT OF GAME, FISH AND PARKS: 41:06:16:02, 41:06:16:02.01, 41:06:16:03, 41:06:16:05, 41:06:16:07; and 41:06:46:01 to 41:06:46:06, inclusive.

History-Notice: 33 SDR 9, July 17, 2006
Hearing: August 3, 2006

Filed: August 29, 2006
Effective: September 18, 2006

DEPARTMENT OF CORRECTIONS: BOARD OF PARDONS AND PAROLES: 17:60:01:04; 17:60:04:01 to 17:60:04:04, inclusive; 17:60:05:02, 17:60:05:03, 17:60:05:06 to 17:60:05:10, inclusive, and 17:60:05:12 to 17:60:05:25, inclusive.

History-Notice: 33 SDR 1, July 3, 2006
Hearing: July 19, 2006
Filed: August 29, 2006
Effective: September 18, 2006

PUBLIC UTILITIES COMMISSION: 20:10:11:13, 20:10:11:16, and 20:10:11:17.

History-Notice: 33 SDR 5, July 10, 2006
Hearing: August 8, 2006
Filed: August 29, 2006
Effective: September 18, 2006

DEPARTMENT OF TRANSPORTATION: 70:01:02:20, 70:01:02:24, 70:01:02:36, and 70:01:02:44.

History-Notice: 33 SDR 5, July 10, 2006
Hearing: July 27, 2006
Filed: August 30, 2006
Effective: September 19, 2006

DEPARTMENT OF LABOR: DIVISION OF LABOR AND MANAGEMENT: 47:03:01:12, 47:03:01:18 to 47:03:01:28, inclusive.

History-Notice: 33 SDR 1, July 3, 2006
Hearing: July 24, 2006
Filed: August 31, 2006
Effective: September 20, 2006

DEPARTMENT OF SOCIAL SERVICES:

67:46:01:16; 67:46:05:06, 67:46:05:06.01, 67:46:05:08.01, 67:46:05:09.02, 67:46:05:10, 67:46:05:15, 67:46:05:38, 67:46:05:52, 67:46:05:53, 67:46:05:54, 67:46:05:55; and 67:46:08:05.

History-Notice: 33 SDR 26, August 14, 2006
Hearing: NA
Filed: August 31, 2006
Effective: August 31, 2006

DEPARTMENT OF SOCIAL SERVICES:

67:16:44:01, 67:16:44:06, 67:16:44:07, 67:16:44:08, 67:16:44:10, and 67:16:44:12.

History-Notice: 32 SDR 215, June 5, 2006
Hearing: June 22, 2006
Filed: August 31, 2006
Effective: September 20, 2006

Executive Appointments:

Robert Carr, Sioux Falls, was appointed on August 23, 2006, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, to replace Nicole Burger, effective August 23, 2006, and shall continue until June 30, 2007.

Michael B. DeMersseman, Rapid City, was reappointed on August 23, 2006, to the **Board of Minerals and Environment**, effective immediately and shall continue until June 30, 2010.

Kevin Joffer, Sioux Falls, was appointed on August 23, 2006, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, to replace Ruth Cedar Face, effective August 22, 2006, and shall continue until June 30, 2007.

Lee M. McCahren, Vermillion, was reappointed on August 23, 2006, to the **Board of Minerals and Environment**, effective immediately and shall continue until June 30, 2010.

Kristi Spitzer, Leola, was reappointed on August 23, 2006, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, effective immediately and shall continue until June 30, 2009.

Richard C. Sweetman, Sioux Falls, was reappointed on August 23, 2006, to the **Board of Minerals and Environment**, effective immediately and shall continue until June 30, 2010.

Kathy White, Sturgis, was reappointed on August 23, 2006, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, effective immediately and shall continue until June 30, 2009.

Jeanie L. Blair, Sturgis, was appointed on August 31, 2006, to the **State Board of Podiatry Examiners**, to replace Clifford Thomas, effective August 30, 2006, and shall continue until June 30, 2009.

Carol Grubl, Sturgis, was reappointed on August 31, 2006, to the **South Dakota Board of Social Services**, effective immediately and shall continue until June 30, 2010.

Bruce Hintz, Lead, was appointed on August 31, 2006, to the **South Dakota Snowmobile Advisory Council**, to replace Orland Paulsen, effective August 25, 2006, and shall continue until June 30, 2008.

Patricia Kenner, Rapid City, was reappointed on August 31, 2006, to the **Board of Social Services**, effective immediately and shall continue until June 30, 2010.

LaVerne Rens, Sioux Falls, was appointed on August 31, 2006, to the **Family Support Council**, effective August 31, 2006, and shall continue until June 30, 2009.

Gary Ulmer, Menno, was reappointed on August 31, 2006, to the **South Dakota Snowmobile Advisory Council**, effective

immediately and shall continue until June 30, 2009.

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

9-7-2006	Revenue and Regulation: Division of Securities	Amend rules to repeal the requirement of written notification for the opening and closing of branch offices; adding a section entitled "Finders" in order to allow certain exemptions from the definition of agent and broker-dealer; amend rules to allow finders in an intrastate limited offering; adding a section entitled "Twenty-five purchasers exempt transaction" to clarify that the exemption from registration, pursuant to 47-31B-202(14) is limited to those persons who have a principle place of business in South Dakota and to allow the payment of commissions to a finder; and add a section entitled "Entities for economic development" in order to allow the presentation of certain business plans in a public meeting prior to securities registration; 33 SDR 25.
9-8-2006	Revenue and Regulation: Property and Special Taxes	Amend rules to update the edition of the manuals used to value and assess property; 33 SDR 30.
9-8-2006	Health: Board of Chiropractic Examiners	Amend rules to clarify requirements for inactive status; adopt a nationally recognized approval source for continuing education courses; and clarify certain ethical standards and the disciplinary procedure; 33 SDR 35.
9-12-2006	Revenue and Regulation: Gaming Commission	Amend Racing Rules to remove the designation of mutuel room employees as officials of a race meeting; allow owners to apply for licenses by using applications found on the Commission website; require the horse owner, trainer or the owner or trainer's licensed designee to remain with a horse that has been selected for drug testing after a race until the sample is taken; allow chiropractors who are authorized to perform physical examinations in certain circumstances to perform the annual examinations of jockeys; repeal the rule regarding engagement slips; eliminate the requirement for engagement books;

		<p>acknowledge that trainers or persons deputized by them can enter horses into races; clarify that money paid for entry into a race is part of the total purse which is distributed to several participants in a race, not just the winner; allow the stewards' discretion in allowing the spouse of a person who has been deemed ineligible or disqualified to enter a horse in a race where the stewards believe the spouse was not guilty of any wrongdoing; correctly identify the appropriate official or organization that accepts payment of fees relating to a race; relieve a jockey of the obligation to ride a horse on which the jockey did not accept the engagement and further to require the jockey to notify officials if the jockey does not wish to ride the horse; clarify that owners, trainers and licensed employees may assist with their horses during the starting of a race; acknowledge that where a horse leaves the course and the official veterinarian believes the horse to be unfit to compete or if the horse leaves the sight of the stewards, the horse shall not be allowed to run in the race; eliminate the requirement that a jockey weigh in after a race where the horse the jockey was riding did not finish; eliminate reference to ARSD 20:04:27:06 which has been repealed; give the stewards and the Commission more latitude in determining penalties for minor infractions of medication rules; and allow payment of unredeemed tickets up to one year following the date on which a race was run. Amend Deadwood Gambling Rules to adopt a variation of the game of blackjack known as Buster Blackjack; allow for a variation of the game of Pineapple Poker entitled Crazy Pineapple Poker; change the probability of obtaining maximum posted payouts on slot machines from 17,000,000-to-1 to 50,000,000-to-1; adopt the International Building Code as the code to be complied with rather than the outdated Uniform Building Code; and utilize the International Building Code in inner access issues between buildings; 33 SDR 29.</p>
<p>9-19-2006</p>	<p>Education: Board of Education</p>	<p>Amend rules to establish the process for the accreditation and program approval of teacher preparation programs and closely align the</p>

		rules to the requirements of the National Council for Accreditation of Teacher Education (NCATE); and to create the structural guidelines for the South Dakota Virtual High School, which will provide expanded opportunities for students needing credit recovery, students who are homebound, and students who are home schooled and will support school districts that are unable to find qualified staff to fill courses required for high school graduation; 33 SDR 25.
9-19-2006	Secretary of State: Board of Finance	Amend rules to increase the in-state per diem rates for lodging provided to state employees traveling for official state business, to clarify that per diem rates currently enumerated apply during out of country travel and receipts for meals expenses incurred during out of country travel are not required, and to repeal a rule limiting the amount for apartment rent in lieu of lodging; 33 SDR 41.
9-26-2006	Administration	Amend rules to remove references to the director of highways and state highway engineer and replace them with the secretary of Transportation or his designee; 33 SDR 23.
9-27-2006	Agriculture: Brand Board	Amend a rule to increase the ownership inspection fee from .70 to .80 cents for each head of livestock inspected; 33 SDR 35.
9-28-2006	Transportation	Amend a speed zone in Potter County on US Highway 212 in the City of Gettysburg to reduce speed limits for traffic entering the community and along the areas of development and amend a rule to allow for the addition of a third service type on panel or supplemental panel informational, directional signs; 33 SDR 42.
9-28-2006	Public Safety: Driver Licensing	Amend rules to change the Department name from Commerce and Regulation to Public Safety; prohibit an applicant who has made a fraudulent application for a driver license or identification card from obtaining such document until the Department Secretary deems it appropriate; revise rules regarding issuance of restricted licenses (work and school permits); revise rules regarding commercial driver licenses to reflect adoption of current federal regulation and to revise requirements for third party tester applicants; clarify language regarding commercial

		disqualifications; change reference to statutes that have been moved from one chapter to a different chapter; repeal the fees for the sale of driver license lists and clarify language regarding vision standards needed to obtain a driver license; 33 SDR 42.
9-29-2006	Agriculture: Pulse Council	Adopt rules to establish guidelines for the Pulse crop check-off; 33 SDR 41.
10-3-2006	Public Safety: State Fire Marshal	Amend rules to change all references made to the Department of Commerce and Regulation to the Department of Public Safety, and adopt the 2003 edition of the International Building, Fire, and Mechanical Codes as fire safety standards; 33 SDR 42.
10-6-2006	Labor: Board of Accountancy	Amend rules to update the references cited and to include acceptable experience gained prior to sitting for the Uniform CPA Examination; 33 SDR 41.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Thursday, September 28, 2006, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2006 interim: December 5, and January 8, 2007.

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.