

REGISTER



South Dakota Legislative Research Council

Volume 38

Tuesday, 8:00 a.m., September 6, 2011

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

Governor's Office of Economic Development: (August 30, 2011) intends to adopt rules to establish requirements and standards for the certification of certain business and industrial sites as "certified ready." The general authority for these rules, as cited by the office, is SDCL 6-18-4.

A public hearing will be held in the conference room at the offices of the Governor's Office of Economic Development, 210 East 4th Street, Pierre, South Dakota, on October 13, 2011, at 1:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to the Governor's Office of Economic Development, 711 East Wells Avenue, Pierre, South Dakota 57501. Written comments must be received by October 25, 2011, 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) 773-5652 at least 48 hours before the hearing.

Department of Environment & Natural Resources: (September 2, 2011) intends to repeal the department's photocopy fee rules. The general authority for these rules, as cited by the department, is SDCL 1-40-31.

A public hearing will be held at the Matthew Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre, South Dakota, on October 12, 2011, at 1:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to the Department of

Environment and Natural Resources, 523 E. Capitol, Joe Foss Building, Pierre, South Dakota 57501. Copies of the proposed rules and supporting documentation can also be obtained by visiting the Department's web page at <http://denr.sd.gov/>. Written comments must reach the department by October 23, 2011, 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) 773-5559 at least 48 hours before the public hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

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

74:27:07:01; 74:27:13:17; 74:35:01:01 to 74:35:01:28, inclusive; 74:35:02:01 to 74:35:02:03, inclusive; 74:36:21:02, 74:36:21:06, and 74:36:21:09.

History-Notice: 38 SDR 7, July 18, 2011
Hearing: August 18, 2011
Filed: August 30, 2011
Effective: September 19, 2011

DEPARTMENT OF AGRICULTURE:

ANIMAL INDUSTRY BOARD: 12:68:06:04 to 12:68:06:06, inclusive; 12:68:12:01, 12:68:12:07; and 12:68:14:01.

History-Notice: 37 SDR 231, June 6, 2011
Hearing: July 12, 2011
Filed: August 31, 2011
Effective: September 20, 2011

**DEPARTMENT OF AGRICULTURE:
DIVISION OF AGRICULTURAL
SERVICES:** 12:56:01:01; 12:56:02:01 to
12:56:02:06, inclusive; 12:56:04:01 to
12:56:04:12.03, inclusive; 12:56:05:05.01;
12:56:07:02 to 12:56:07:04, inclusive;
12:56:08:01, 12:56:08:04; 12:56:09:01;
12:56:10:02, 12:56:10:05; 12:56:12:02,
12:56:12:03; 12:56:13:01.01; 12:56:14:05; and
12:56:17:02.

History-Notice: 38 SDR 11, July 25, 2011
Hearing: August 16, 2011
Filed: August 31, 2011
Effective: September 20, 2011

**DEPARTMENT OF ENVIRONMENT AND
NATURAL RESOURCES: WATER
MANAGEMENT BOARD:** 74:53:03:01 to
74:53:03:21, inclusive.

History-Notice: 37 SDR 239, June 20, 2011
Hearing: July 13, 2011
Filed: August 31, 2011
Effective: September 20, 2011

**DEPARTMENT OF GAME, FISH AND
PARKS:** 41:08:01:12.

History-Notice: 38 SDR 7, July 18, 2011
Hearing: August 4, 2011
Filed: August 31, 2011
Effective: September 20, 2011

**DEPARTMENT OF LABOR AND
REGULATION: DIVISION OF
INSURANCE:** 20:06:55:25.

History-Notice: 38 SDR 7, July 18, 2011
Hearing: August 4, 2011
Filed: August 31, 2011
Effective: September 20, 2011

**DEPARTMENT OF LABOR AND
REGULATION: APPRAISER
CERTIFICATION PROGRAM:** 20:77:01:01
to 20:77:01:05, inclusive; 20:77:02:01 to
20:77:02:04, inclusive; 20:77:03:01 to
20:77:03:05, inclusive; 20:77:04:01 to

20:77:04:04, inclusive; 20:77:05:01;
20:77:06:01, 20:77:06:02; and 20:77:07:01 to
20:77:07:03, inclusive.

History-Notice: 37 SDR 235, June 13, 2011
Hearing: July 8, 2011
Filed: August 31, 2011
Effective: September 20, 2011

**DEPARTMENT OF LABOR AND
REGULATION: STATE PLUMBING
COMMISSION:** 20:53:10:03; 20:53:11:01,
20:53:11:02, 20:53:11:10, 20:53:11:12;
20:54:02:01; 20:54:19:01; 20:54:20:11;
20:54:21:01, 20:54:21:03; 20:54:22:02,
20:54:22:03; 20:54:25:02, 20:54:25:03; and
20:54:26:04.

History-Notice: 37 SDR 240, June 20, 2011
Hearing: July 13, 2011
Filed: August 31, 2011
Effective: September 20, 2011

**DEPARTMENT OF PUBLIC SAFETY:
OFFICE OF WEIGHTS AND MEASURES:**
20:15:06:01.

History-Notice: 37 SDR 240, June 20, 2011
Hearing: July 19, 2011
Filed: August 31, 2011
Effective: September 20, 2011

**DEPARTMENT OF GAME, FISH AND
PARKS:** 41:06:21:02, 41:06:21:05;
41:06:23:01, 41:06:23:02, 41:06:23:03;
41:06:25:02; 41:06:36:02, 41:06:36:02.01; and
41:06:50:02.

History-Notice: 37 SDR 239, June 20, 2011
Hearing: July 7, 2011
Filed: September 1, 2011
Effective: September 21, 2011

Executive Appointments:

Timothy G. Bottum, Mitchell, was appointed on August 26, 2011, to the **Corrections Commission**, to replace George Prest, effective August 26, 2011.

Jennifer E. Bunkers, Chester, was appointed on August 26, 2011, to the **Governor's Task Force on Trust Administration Review and Reform**, effective August 26, 2011, and shall continue until May 31, 2014.

Michael L. McDowell, Madison, was appointed on August 26, 2011, to the **Transportation Commission**, to replace John Kranz, effective August 26, 2011, and shall continue until April 18, 2014.

Steven M. Allender, Rapid City, was appointed on August 31, 2011, to the **Governor's Reentry Council**, to replace Alan Hanks, effective August 30, 2011.

David R. Johnson, Sioux Falls, was reappointed on August 31, 2011, to the **Board of Examiners for Counselors and Marriage**

and Family Therapists, effective immediately and shall continue until June 30, 2014.

Darrel Kessler, Aberdeen, was reappointed on August 31, 2011, to the **Board of Examiners for Counselors and Marriage and Family Therapists**, effective immediately and shall continue until June 30, 2014.

Pam Kettering, Yankton, was reappointed on August 31, 2011, to the **Board of Examiners for Counselors and Marriage and Family Therapists**, effective immediately 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

9-14-2011	Revenue: Commission on Gaming	Amend Horse Racing rules to repeal informal consultation with Executive Secretary; clarify that all appeals other than disqualifications of the official order of finishes go to the Commission; clarify that appeals on orders of finish only go to the Board of Stewards, not to the Commission, and to be consistent with other rules; clarify that posted business hours of the racing office shall be maintained; remove baths from the facilities racing associations must provide; require racing secretary to record wins on horses' appropriate records; clarify that in time trials hand timing by the timers will be conducted in certain circumstances; eliminate the requirement that white or light breeches must be worn by jockeys; repeal restrictions on the sale, control, and racing of claimed horses; clarify that it is
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		<p>the unofficial winner of races that are tested following a race; clarify penalty provisions for use of illegal substances; remove Ibuprofen as an authorized drug in race horses; clarify the time frames and methods of administration of furosemide (lasix); clarify the use of chemist's test as evidence of unauthorized drug use; eliminates the punishment of voiding of purses and track records with certain drug usage; add testing assistant as a category of licensee; repeal education courses required for renewal; amend Greyhound Racing rules to repeal the provisions that relate to live races, yet keeps the authorization for wire signals and off track betting; add multijurisdictional totalizator hubs as licensed facilities at which pari-mutuel tickets can be sold; clarify that the Commission auditor may access all properly licensed facilities; clarify that all licensed facilities must cooperate with the Commission auditor; clarify that the South Dakota Racing Commission no longer exists and that all licensed facilities must properly operate their mutual departments; clarify that all licensed facilities must report violations of laws or rules; and amend Gaming rules to allow players to play up to two hands of Three-Card Poker at the operator's discretion; and provide for the appropriate pay tables for the game, Four-card poker; 38 SDR 27.</p>
<p>9-23-2011</p>	<p>Health: Board of Massage Therapy</p>	<p>Amend rules to identify the application fee, provide options for continuing education, correct an error, and require adherence to ethical standards; 38 SDR 33.</p>
<p>10-6-2011</p>	<p>Game, Fish and Parks</p>	<p>Amend Park Licenses rules to repeal rules that provide that the park season extends from January 1 to December 31, inclusive, of each year, and establish time limits for a temporary park entrance license; amend Use of Parks and Public Lands rules to amend the Oahe Downstream Lodge fees to allow non-profit groups and government agencies a reduced user rate during shoulder and winter seasons and establish a check out time for camping cabins and park lodges; amend License Forms and Fees rules to eliminate the Custer State Park "any mountain lion" hunting license and \$150 fee for the license; lower the fee for</p>

		<p>replacing lost or destroyed nonresident waterfowl licenses from \$15 to \$5; eliminate the rule provisions that authorize the issuance of a permit in lieu of a lost license; create a new resident senior combination license at a cost of \$34 (\$29 plus \$5 surcharge) for persons 65 years of age and older; and reduce the fee charged for nonresident youth small game licenses from \$25 to \$10; amend Custer State Park Restrictions rules to eliminate the eligibility requirement prohibiting a person who received a Custer State Park (CSP) "any mountain lion" license in any of the preceding nine years from applying for a license for the current mountain lion hunting season; and repeal the rule which prohibits a licensee hunting in the field during a CSP big game season from being accompanied by a guide; amend a Waterfowl Hunting Seasons rule to repeal the existing rule which requires use of nontoxic shot to take all species of waterfowl; amend a Sandhill Crane Hunting Season rule to repeal the existing rule which requires use of nontoxic shot to take sandhill crane; appeal a Depredation Permits rule to eliminate the rule which provides there is no application fee for a depredation permit; amend Mountain Lion Hunting Season rules to increase the total statewide mountain lion harvest limit from 50 to 60 mountain lions and increase the female harvest limit from 30 to 40 female mountain lions; repeal rules adopted in 2010 that provided for mountain lion hunting in CSP; and establish a random drawing process to allow a limited number of mountain lion hunters an opportunity to hunt in CSP; amend a Dog Training rule to repeal the section which requires an applicant for a professional dog training license to provide proof that the applicant has obtained written permission of all landowners on which the dog training will be held; amend a Nursing Home Group Fishing rule to repeal the section which provides that nursing home residents are subject to all other statutes and rules relating to fishing; and amend a Non-Game Bird Damage rule to repeal the chapter; 38 SDR 27.</p>
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10-12-2011	Environment and Natural Resources	Repeal the department's photocopy fee rules; 38 SDR 39.
10-13-2011	Governor's Office of Economic Development	Adopt rules to establish requirements and standards for the certification of certain business and industrial sites as "certified ready;" 38 SDR 39.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, September 27, 2011. The committee chair has set the following tentative meeting schedule for the 2011 interim: November 15, and December 12.

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>.