

REGISTER

South Dakota Legislative Research Council



Volume 33

Monday, 8:00 a.m., September 11, 2006

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

Department of Environment and Natural Resources: Board of Water and Natural Resources:

(September 8, 2006) has filed rules to establish a consistent definition of "Board" across the programs; allow a designated representative to act in behalf of the department secretary; change the effective date of the Clean Water Act from January 1, 2004, to October 1, 2006; modify the definition of "Facilities plan"; simplify the rule regarding application cycles; allow capitalized interest as an eligible project cost; establish the criteria for setting interest rates; eliminate the need to set rates annually for the revolving fund programs; clarify that individual payments can exceed the percentage provided in the award agreement, but the total payment cannot exceed that percentage; require assistance recipients to maintain accounting records in accordance with the financial assistance agreements; eliminate the requirement for assistance recipients to maintain final project plans and make them available for public inspection; specify that water user districts are eligible for loan funding for projects involving wastewater treatment works; reduce the number of calendar days required for the public hearing notice to adopt the Intended Use Plans and allow the board 30 days to adopt the final Intended Use Plans; clarify the procedure for amending the Drinking Water SRF Intended Use Plan; clarify the items that must be received as part of the revolving fund loan applications and establish deadlines for the submittal and review of those items; allow the Board of Water and Natural Resources to rescind loans under certain conditions; increase the maximum

repayment period for SRF loans from 20 years to 30 years; include a definition of "loan" for the SRF programs; clarify that loan repayment periods cannot exceed the useful life of any project financed through a revolving fund program; revise a citation to an administrative rule in the Drinking Water SRF project priority rating system; clarify that set-aside for Drinking Water SRF administration can be used for retaining a financial advisor and eliminate language regarding costs for establishing the Drinking Water SRF program; and to make other revisions as needed to provide consistency among the programs. The general authority for these rules, as cited by the department, is 46A-1-60.1 to 46A-1-60.3, 46A-1-65, and 46A-1-84.

A public hearing will be held at the Matthew Training Center, 523 E. Capitol Avenue, Pierre, South Dakota, on September 28, 2006, at 1:00 p.m. CDT. Copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Environment and Natural Resources, Division of Financial and Technical Assistance, 523 East Capitol Avenue, Pierre, South Dakota 57501. Copies may also be accessed on the department's web page at <http://www.state.sd.us/denr/What'sNew>. Written comments must reach the Board of Water and Natural Resources by the close of business on 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) 773-4216 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATES OFFICE:

Filed: September 6, 2006
Effective: September 26, 2006

DEPARTMENT OF HEALTH: BOARD OF

MASSAGE THERAPY: 20:76:01:01 to 20:76:01:05, inclusive; 20:76:02:01 and 20:76:02:02; 20:76:03:01 to 20:76:03:07, inclusive; 20:76:04:01 to 20:76:04:10, inclusive; and 20:76:05:01.

History-Notice: 32 SDR 167, April 3, 2006
Hearing: July 24, 2006
Filed: September 1, 2006
Effective: September 21, 2006

DEPARTMENT OF HUMAN SERVICES: BOARD OF SOCIAL WORK

EXAMINERS: 20:59:01:01, 20:59:01:02.01, 20:59:01:10, 20:59:01:10.01, 20:59:01:10.02; 20:59:05:04, 20:59:05:06, and 20:59:05:11.

History-Notice: 33 SDR 1, July 3, 2006
Hearing: July 24, 2006
Filed: September 5, 2006
Effective: September 25, 2006

ATTORNEY GENERAL: LAW ENFORCEMENT OFFICERS STANDARDS AND TRAINING

COMMISSION: 2:01:08:04.01; 2:01:13:07, and 2:01:13:08.

History-Notice: 32 SDR 223, June 19, 2006
Hearing: July 19, 2006

Executive Appointments:

Mary Carpenter, Winner, was appointed on September 5, 2006, to the **State Board of Medical and Osteopathic Examiners**, to replace Dr. Robert Raszkowski, effective September 1, 2006, and shall continue until June 30, 2007.

David K. Erickson, Dell Rapids, was appointed on September 5, 2006, to the **State Board of Medical and Osteopathic Examiners**, to replace Dr. Richard Porter, effective September 1, 2006, 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

9-12-2006	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
-----------	---	--

		<p>examinations of jockeys; repeal the rule regarding engagement slips; eliminate the requirement for engagement books; 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>
--	--	--

9-19-2006	Education: Board of Education	Amend rules to establish the process for the accreditation and program approval of teacher preparation programs and closely align the 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.
9-28-2006	Environment and Natural Resources: Board of Water and Natural Resources	Amend rules to establish a consistent definition of "Board" across the programs; allow a designated representative to act in behalf of the department secretary; change the effective date of the Clean Water Act from January 1, 2004, to October 1, 2006; modify the definition of "Facilities plan"; simplify the rule regarding application cycles; allow capitalized interest as an eligible project cost; establish the criteria for setting interest rates; eliminate the need to set rates annually for the revolving fund programs; clarify that individual payments can exceed the percentage provided in the award agreement, but the total payment cannot exceed that percentage; require assistance recipients to maintain accounting records in accordance with the financial assistance agreements; eliminate the requirement for assistance recipients to maintain final project plans and make them available for public inspection; specify that water user districts are eligible for loan funding for projects involving wastewater treatment works; reduce the number of calendar days required for the public hearing notice to adopt the Intended Use Plans and allow the board 30 days to adopt the final Intended Use Plans; clarify the procedure for amending the Drinking Water SRF Intended Use Plan; clarify the items that must be received as part of the revolving fund loan applications and establish deadlines for the submittal and review of those items; allow the Board of Water and Natural Resources to rescind loans under certain conditions; increase the maximum repayment period for SRF loans from 20 years to 30 years; include a definition of "loan" for the SRF programs; clarify that loan repayment periods cannot exceed the

		useful life of any project financed through a revolving fund program; revise a citation to an administrative rule in the Drinking Water SRF project priority rating system; clarify that set-aside for Drinking Water SRF administration can be used for retaining a financial advisor and eliminate language regarding costs for establishing the Drinking Water SRF program; and to make other revisions as needed to provide consistency among the programs; 33 SDR 49.
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.