

# REGISTER



## South Dakota Legislative Research Council

Volume 37

Monday, 8:00 a.m., September 27, 2010

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

***Department of Revenue and Regulation:***

***Division of Securities:*** (September 20, 2010) is proposing to amend Broker-Dealer and Agent rules to change the use of NASD to FINRA due to the merger of these two organization; clarify the series 63 examination lapse of registration; provide for any SEC required fiduciary standards; add senior specific professional designations; and exempt certain business brokers from broker-dealer registration; amend Registration Requirements and Procedures rules to clarify existing rules and exempt certain advertising in public offerings prior to complete registration; amend Investment Adviser rules to repeal all existing rules and replace those with model rules that coordinate with the Uniform Securities Act of 2002 and include the new SEC ADV format; and provide for an exemption to registration for certain investments advisers; and amend Notice Filings for Covered Securities and Registration Exemptions rules to clarify how to calculate the number of purchasers under ARSD 47-31B-202(14) and the use of this same exemption by out of state issuers; and define "isolated non-issuer." The general authority for these rules, as cited by the division, is SDCL 47-31B-203, 47-31B-301, 47-31B-302, 47-31B-304, 47-31B-305, 47-31B-401, 47-31B-402, 47-31B-403, 47-31B-404, 47-31B-405, 47-31B-406, 47-31B-408, 47-31B-409, 47-31B-410, 47-31B-411, 47-31B-412, 47-31B-502, 47-31B-503, 47-31B-605, and 47-31B-608.

A public hearing will be held on the first floor of the Anderson Building, 445 E. Capitol

Avenue, Pierre, South Dakota, on October 21, 2010, at 10:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Division of Securities, 445 E. Capitol Avenue, Pierre, South Dakota 57501-1234. Written comments must be received by October 31, 2010, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the division can make arrangements are asked to call (605) 773-4823 at least forty-eight hours before the hearing.

**FILINGS IN THE SECRETARY OF STATE'S OFFICE:**

**DEPARTMENT OF REVENUE AND REGULATION: DIVISION OF**

**INSURANCE:** 120:06:39:08; 120:06:53:68 to 120:06:53:77, inclusive; 120:06:54:01 to 120:06:54:06, inclusive, Appendix A; and 120:06:55:01 to 120:06:55:26, inclusive.

History-Notice: 37 SDR 53, Sept. 13, 2010

Hearing: N/A

Filed: Sept. 23, 2010

Effective: Sept. 23, 2010

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**

9-28-2010	Education: Board of Education	Amend rules to provide valid and reliable testing procedures for any school district choosing to write their own end-of-course exams; 37 SDR 35.
9-30-2010	Public Safety: South Dakota 911 Coordination Board	Adopt a rule to establish alternative compliance methods for the requirement contained in ARSD 50:02:04:02 which requires all public safety answering points to be staffed with two 9-1-1 telecommunicators on duty at all times; 37 SDR41.
10-7-2010	Revenue and Regulation: Real Estate Commission	Amend rules to permit a licensee to receive advance compensation if the compensation is placed in the broker's trust account until completion of the service performed, authorize the commission to issue consent orders, define auction terms, establish listing requirements, advertising guidelines and procedures when selling real estate at auction, require auctioneers to retain certain records, prohibit auctioneers from performing certain acts, distinguish licensees who are permitted to conduct auctions, and allow an inactive nonresident licensee to renew without filing a certification of licensure from the licensee's resident state; 37 SDR 47.
10-7-2010	Game, Fish and Parks	Amend License Forms and Fees rules to add a Custer State Park (CSP) "any mountain lion" hunting license and establish the fee for the license at \$300 and increase the fee for a regular statewide mountain lion hunting license from \$10 to \$20; amend a Hunting Requirements and Prohibited Methods rule to remove the prohibition against using dogs and electronic calls when hunting mountain lions; amend CSP Restrictions rules to establish an eligibility requirement prohibiting a person who received a CSP "any mountain lion" license in any of the preceding nine years from applying for a license for the current CSP mountain lion season; and amend Mountain Lion Hunting Season rules to establish season dates, open area, harvest limits, requirements and restrictions, number of resident licenses available, and increase the total mountain lion harvest limit outside of CSP from 40 to 45

		mountain lions and increase the female harvest limit outside of CSP from 25 to 30 female mountain lions; limit residents to one mountain lion hunting license per year; and transfer language pertaining to the use of electronic calls in hunting mountain lions contained in the current mountain lion hunting season rule to the Hunting Requirements and Prohibited Methods Chapter; establish a new mountain lion hunting season within the fenced boundaries of CSP to take place from January 1 through March 31 of each year; establish the number of licenses available to state residents at 5 at a cost per license of \$300; and provide for other restrictions for the CSP mountain lion hunting license; 37 SDR 58.
10-13-2010	Social Services: Division of Adult Services and Aging	Adopt Hospice Services rules – adopt definitions, identify eligibility requirements for providers and recipients, outline covered service limitations, define notice requirements and reimbursement policy, and clarify claim submission requirements; 37 SDR 57.
10-14-2010	Education: Professional Administrators Practices and Standards Commission	Amend a rule to allow the Professional Administrators Practices and Standards Commission to address ethical violations occurring three years prior to the filing of a complaint; 37 SDR 41.
10-14-2010	Bureau of Administration	Amend rules to update requirements related to the fee for placement on the state bidders list, and to establish specifications and requirements for state government purchases of environmentally preferable products; 37 SDR 53.
10-14-2010	Bureau of Administration	Amend rules to update statutory citations related to the requirement that certain state publications bear an inscription listing the publisher, the number of copies published, and the approximate cost of publication per copy; 37 SDR 57.
10-21-2010	Revenue and Regulation: Division of Securities	Amend Broker-Dealer and Agent rules to change the use of NASD to FINRA due to the merger of these two organization; clarify the series 63 examination lapse of registration; provide for any SEC required fiduciary standards; add senior specific professional designations; and exempt certain business brokers from broker-dealer registration; amend Registration Requirements and Procedures

		rules to clarify existing rules and exempt certain advertising in public offerings prior to complete registration; amend Investment Adviser rules to repeal all existing rules and replace those with model rules that coordinate with the Uniform Securities Act of 2002 and include the new SEC ADV format; and provide for an exemption to registration for certain investments advisers; and amend Notice Filings for Covered Securities and Registration Exemptions rules to clarify how to calculate the number of purchasers under ARSD 47-31B-202(14) and the use of this same exemption by out of state issuers; and define "isolated non-issuer."; 37 SDR 63.
10-22-2010	Health: Board of Dentistry	Amend rules to change from regulating by the modality of the delivery of the sedative or anesthetic to regulating based on the level of sedation; define four levels of sedation – minimal, moderate, deep, and general anesthesia; and require dentists who are not specialists to disclaim as much if they advertise services in a recognized specialty area and places certain requirements on advertising in non-recognized specialty areas; 37 SDR 57.

### RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, September 28, 2010, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor, of the State Capitol. Other DDN sites will be: Aberdeen – NSU, 1200 S. Jay Street, Room Lib117; Huron – DOT, 901 Dakota St.; Mitchell – MTI, 1800 E. Spruce, Room TC155; Rapid City – DOT, 2300 Eglin St.; Sioux Falls – University Center, 2205 Career Ave., Room 282 S, and Yankton – DOT 1306 W. 31<sup>st</sup> St. The committee chair has set the following tentative meeting schedule for the 2010 interim: November 17 and December 20.

**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>.