

# REGISTER



## South Dakota Legislative Research Council

Volume 31

Monday, 8:00 a.m., October 25, 2004

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

**Department of Education: Board of Education:** (October 19, 2004) has filed rules to (1) align the rule to current statutes and remove the State Board of Education from the exemption process; (2) change the new technical education program proposal deadline to April 1; (3) create definitions for the proposed three high school courses of study; and (4) define the requirements of the proposed three high school courses of study. The general authority for these rules, as cited by the board, is SDCL 13-1-12.1, 13-3-47, 13-26-2.1, and 13-39-37.

A public hearing will be held at the Ramkota Inn, 920 West Sioux Avenue, Pierre, South Dakota, on November 15, 2004, at 1:30 p.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Education, South Dakota Board of Education, 700 Governors Drive, Pierre, South Dakota 57501. Written comments must be received by the Department of Education by November 15, 2004, 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) 773-3426 at least 48 hours before the hearing.

**Department of Revenue and Regulation: Banking Commission:** (October 19, 2004) has filed rules to amend and adopt rules to authorize banks to provide mobile banking services to their customers and to change the date when trust company license fees are due. The general authority for these rules, as cited by the department, is SDCL 51A-2-14, 51A-2-36, and

51A-6A-33.

A public hearing will be held in LCR 2 of the Capitol, 500 East Capitol Avenue, Pierre, South Dakota, on November 16, 2004, at 10:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to the Department of Revenue and Regulation, Legal Services, 445 East Capitol Avenue, Pierre, South Dakota 57501-3185, or by emailing Beth.Christie@state.sd.us. Copies of the rules are also available at the department's website: [www.state.sd.us/drr](http://www.state.sd.us/drr). Material sent by mail must reach the department by November 15, 2004, 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) 773-4701 at least 48 hours before the hearing.

**Department of Environment and Natural Resources: Board of Minerals and Environment:** (October 21, 2004) intends to adopt, amend and repeal rules that will adopt revisions to federal regulations including surface coating of metal furniture, integrated iron and steel manufacturing facilities, brick and structural clay products manufacturing, asphalt processing and asphalt roofing manufacturing, flexible polyurethane foam fabrication operations, engine test cells/stands, and miscellaneous metal parts and products. The general authority for these rules, as cited by the board, is SDCL 34A-1-6, 34A-1-12, 34A-1-15, 34A-1-18, 34A-1-19, 34A-1-21, and 34A-1-24.

A public hearing will be held at the Matthew Environmental Education and Training Center, Joe Foss Building, 523 East Capitol Avenue, Pierre, South Dakota, on November 18, 2004, at

10:10 a.m. CDT. Copies of the proposed rules may be obtained without charge from and written comments sent to Kyrik Rombough, Natural Resources Engineering Specialist, Department of Environment and Natural Resources, 523 East Capitol, Joe Foss Building, Pierre, South Dakota 57501. Written comments must be received by the Department of Environment and Natural Resources by the close of business on November 18, 2004, 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) 773-3151 at least 48 hours before the hearing.

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

**DEPARTMENT OF LABOR:**

**COSMETOLOGY COMMISSION:**

20:42:03:06, 20:42:03:06.01, 20:42:03:12; 20:42:04:04.01, 20:42:04:05.01, 20:42:04:08.01, 20:42:04:09.01; 20:42:06:01.03, 20:42:06:05, 20:42:06:21, 20:42:06:28; 20:42:07:01, 20:42:07:02, 20:42:07:07, 20:42:07:07.01; and 20:42:08:01 to 20:42:08:08, inclusive.

History-Notice: 31 SDR 33, Sept. 7, 2004  
 Hearing: September 27, 2004  
 Filed: October 15, 2004  
 Effective: November 4, 2004

**DEPARTMENT OF GAME, FISH AND**

**PARKS:** 41:03:01:16, 41:03:04:03; 41:09:12:03, and 41:09:12:03.01 to 41:09:12:03.05, inclusive.

History-Notice: 31 SDR 47, Sept. 27, 2004  
 Hearing: October 7-8, 2004  
 Filed: October 15, 2004  
 Effective: November 4, 2004

**DEPARTMENT OF TRANSPORTATION:**

70:01:02:09, 70:01:02:14, and 70:01:02:42.

History-Notice: 31 SDR 34, Sept. 7, 2004  
 Hearing: September 23, 2004  
 Filed: October 18, 2004  
 Effective: November 7, 2004

**DEPARTMENT OF HEALTH:**

44:03:01:06.02, 44:03:01:10, 44:03:01:11.05, 44:03:01:14.01, 44:03:01:14.03; 44:04:01:01, 44:04:01:04, 44:04:01:11; 44:04:02:07, 44:04:02:09, 44:04:02:22; 44:04:03:02.01; 44:04:04:02, 44:04:04:08.01; 44:04:06:09; 44:04:07:02.03, 44:04:07:06, 44:04:07:17; 44:04:08:05; 44:04:09:08, 44:04:09:10; 44:04:13:05, 44:04:13:18; 44:04:15:08; 44:58:02:23; and 44:58:03:02.01.

History-Notice: 31 SDR 25, August 23, 2004  
 Hearing: September 29, 2004  
 Filed: October 18, 2004  
 Effective: November 7, 2004

**DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: WATER**

**MANAGEMENT BOARD:** 74:54:01:01, 74:54:01:04, 74:54:01:05, 74:54:01:06; 74:54:02:01, 74:54:02:02, 74:54:02:06, 74:54:02:13, 74:54:02:15.01, and 74:54:02:17.

History-Notice: 31 SDR 34, Sept. 7, 2004  
 Hearing: October 6, 2004  
 Filed: October 18, 2004  
 Effective: November 7, 2004

**DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: WATER**

**MANAGEMENT BOARD:** 74:02:01:42.09 and 74:02:04:28.

History-Notice: 31 SDR 39, Sept. 13, 2004  
 Hearing: October 6, 2004  
 Filed: October 19, 2004  
 Effective: November 8, 2004

**DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: DIVISION OF ENVIRONMENTAL SERVICES: 74:04:10** and 74:04:12:41 to 74:04:12:45, inclusive.

History-Notice: 31 SDR 17, August 2, 2004  
Hearing: August 25, 2004  
Filed: October 20, 2004  
Effective: November 9, 2004

**DEPARTMENT OF LABOR: PUBLIC UTILITIES COMMISSION: 20:10:35:11.**

History-Notice: 31 SDR 13, July 26, 2004  
Hearing: September 20, 2004  
Filed: October 20, 2004  
Effective: November 9, 2004

**Executive Appointments:**

**Edward Anderson**, Pierre, was reappointed on October 14, 2004, to the **Statewide One-Call Notification Center Board**, effective November 2, 2004, and shall continue until November 1, 2007.

**Terry L. Crandall**, Yankton, was reappointed on October 14, 2004, to the **South Dakota Academic Achievement Test Advisory Council**, effective immediately and shall continue until July 1, 2006.

**John Day**, Yankton, was reappointed on October 14, 2004, to the **State Capitol Complex Restoration and Beautification Commission**, effective immediately and shall continue until July 1, 2008.

**David Jewett**, Spearfish, was reappointed on October 14, 2004, to the **South Dakota Academic Achievement Test Advisory Council**, effective immediately and shall continue until July 1, 2006.

**Gregg Krebsbach**, Rapid City, was reappointed on October 14, 2004, to the **Wheat Utilization Research and Marketing Development**

**Commission**, effective immediately and shall continue until July 1, 2007.

**Doug Larson**, Aberdeen, was reappointed on October 14, 2004, to the **Statewide One-Call Notification Center Board**, effective November 2, 2004, and shall continue until November 1, 2007.

**Terry Larson**, Rapid City, was reappointed on October 14, 2004, to the **Statewide One-Call Notification Center Board**, effective November 2, 2004, and shall continue until November 1, 2007.

**Donald E. Loudner**, Mitchell, was reappointed on October 14, 2004, to the **Veterans Commission**, effective immediately and shall continue until October 1, 2010.

**James A. Olson**, Aberdeen, was reappointed on October 14, 2004, to the **State Board of Examiners in Optometry**, effective immediately and shall continue until July 1, 2007.

**Jerry C. Schroeder**, Hot Springs, was reappointed on October 14, 2004, to the **Statewide One-Call Notification Center Board**, effective November 2, 2004, and shall continue until November 1, 2007.

**Grant Walker**, Gayville, was reappointed on October 14, 2004, to the **Council of Juvenile Services**, effective immediately and shall continue until June 30, 2007.

**LeRoy C. Anderson**, Dell Rapids, was reappointed on October 19, 2004, to the **South Dakota Snowmobile Advisory Council**, effective immediately and shall continue until July 1, 2007.

**Jamie C. Chambers**, Sioux Falls, was reappointed on October 19, 2004, to the **Council of Juvenile Services**, effective immediately and shall continue until June 30, 2007.

**Grace T. Christianson**, Lennox, was reappointed on October 19, 2004, to the **South Dakota Academic Achievement Test Advisory Council**, effective immediately and shall continue until July 1, 2006.

**Janine Kern**, Rapid City, was reappointed on October 19, 2004, to the **Drug and Alcohol Abuse Advisory Council**, effective immediately and shall continue until July 1, 2006.

**Tim Loftness**, Sioux Falls, was reappointed on October 19, 2004, to the **Mental Health Planning and Coordination Advisory Council**, effective immediately and shall continue until July 1, 2007.

**Al Nagel**, Aberdeen, was reappointed on October 19, 2004, to the **South Dakota Snowmobile Advisory Council**, effective immediately and shall continue until July 1, 2007.

**Jocelyn F. Prang**, Rapid City, was reappointed on October 19, 2004, to the **Drug and Alcohol Abuse Advisory Council**, effective immediately and shall continue until July 1, 2006.

**Patricia Smith Peel**, Rapid City, was reappointed on October 19, 2004, to the **South Dakota Academic Achievement Test Advisory Council**, effective immediately and shall continue until July 1, 2006.

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**

10-29-2004	Labor: Board of Accountancy	Amend rules to carry out the functions of the nationally adopted continuing professional education standards, following approval by the Legislature for implementation July 1, 2005; 31 SDR 34.
11-03-2004	Health	Adopt and amend rules to add pediatric influenza deaths to the list of reportable events and simplify the "standard precautions" disease control measure section; 31 SDR 53.
11-04-2004	Game, Fish and Parks	to repeal the license exemption at Farm Island and Oahe Downstream Recreation Areas from September 17-19, 2004; permit a lost or destroyed paddlefish tag to be replaced after authorization and payment of \$5; open the prairie dog shooting season to include shooting of prairie dogs during certain times at the Conata Basin; permit possession and use of baitfish in Dante Lake; prohibit possession/transportation of snakehead fish within and into South Dakota; repeal the list of waters classified as a liberalized fishing water, delete reference to the list in the section imposing fishing restrictions in the listed

		<p>bodies of water, and replace with reference to bodies of water determined by the Secretary to constitute liberalized fishing waters; change the daily limit for largemouth or smallmouth bass for Enemy Swim, Campbell Slough, Roy Lake, Lake Cochrane, Clear Lake (Marshall County), and Pickerel Lake; repeal the catch and release requirement for largemouth and smallmouth bass in the Oahe Subimpoundment; restrict fishing at Lake Haven Crossing Pond (Black Hills) to catch and release and use of artificial lures; impose a daily limit for bluegill, sunfish, crappie, and perch in the waters of Deuel County and Lake Mitchell; add a new subdivision (26) - Angostura in Fall River County and restrict the daily possession limit of crappie in this body of water and add subdivision (26) to exceptions to the statewide daily possession limits found at ARSD 41:07:03:01(7); at Belle Fourche Reservoir remove the 14 inch minimum length requirement and 1 walleye daily limit 20 inches or greater and implement a size restriction so that only those walleye less than 15 inches in length or 18 inches or greater may be taken and only 1 may be taken daily 18 inches in length or greater; open North and South Scatterwood Lakes to game fish spearing from December 1 through the end of February; increase the length of the paddlefish archery season and permit the taking of more than 1 paddlefish daily if the person has a valid tag for the South Dakota/Nebraska boundary waters; and open the following bodies of water to the taking of baitfish: Lake Bryon (Beadle County), East and West Oakwood (Brookings County), Whitewood and Spirit (Kingsbury County), and Beaver (Minnehaha County); and close the following bodies of water to the taking of baitfish: Wilmarth (Aurora County), Henry (Bon Homme County), Ethan and Hanson (Hanson County), Dimick and Menno (Hutchinson County), Iroquois (Kingsbury County), and Mud Lake (Lawrence County); 31 SDR 58.</p>
<p>11-05-2004</p>	<p>Environment and Natural Resources: Water and Natural Resources Board</p>	<p>Amend rules regarding the Brownfields Revitalization and Economic Development Program funds for clarification on how the Water and Natural Resources Board will administer the Brownfields Revolving Loan Subfunds and the Brownfields Assessment and Cleanup Subfunds,</p>

		and liability protection for state designated Brownfields sites; 31 SDR 53.
11-05-2004	Environment and Natural Resources: Water and Natural Resources Board	Amend rules to make revisions so that recipients of assistance through the Consolidated Water Facilities Construction Program, the State Water Pollution Control Revolving Fund Program, the Solid Waste Management Program, and the Drinking Water State Revolving Fund Program will only be required to conduct an entity-wide audit when required by existing state and federal law; 31 SDR 58.
11-15-2004	Education: Board of Education	Amend rules to (1) align the rule to current statutes and remove the State Board of Education from the exemption process; (2) change the new technical education program proposal deadline to April 1; (3) create definitions for the proposed three high school courses of study; and (4) define the requirements of the proposed three high school courses of study; 31 SDR 61.
11-16-2004	Revenue and Regulation: Banking Commission	Amend and adopt rules to authorize banks to provide mobile banking services to their customers and to change the date when trust company license fees are due; 31 SDR 61.
11-18-2004	Environment and Natural Resources: Board of Minerals and Environment	Adopt revisions to federal regulations including surface coating of metal furniture, integrated iron and steel manufacturing facilities, brick and structural clay products manufacturing, asphalt processing and asphalt roofing manufacturing, flexible polyurethane foam fabrication operations, engine test cells/stands, and miscellaneous metal parts and products; 31 SDR 61.

### *Rules Review Committee Meetings*

The next meeting of the Interim Rules Review Committee will be held Tuesday, December 7, 2004, in Room 413 of the State Capitol.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the LRC web site.

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