

REGISTER

South Dakota Legislative Research Council



Volume 37

Monday, 8:00 a.m., May 2, 2011

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

Department of Agriculture: Division of Resource Conservation and Forestry:

(April 28, 2011) intends to adopt rules to set the procedures for the establishment of forest insect and disease control areas and the control measures needed to address declared forest health problems and to set procedures for establishing control areas for mountain pine beetles in the Black Hills. The general authority for these rules, as cited by the department, is SDCL chapters 4-8 and 41-21, and section 7-18-3.

A public hearing will be held at the Walter Taylor 4-H Building (Central States Fairgrounds), 601 E. Centre Street, Rapid City, South Dakota, on May 24, 2011, at 6:00 p.m. Copies of the proposed rules may be obtained without charge from the South Dakota Department of Agriculture, Attention – Ray Sowers, 523 E. Capitol Avenue, Pierre, SD 57501-3182; Email: SDRCF@state.sd.us; or by Website: <http://sdda.sd.gov/Forestry>. Written comments may be sent to the South Dakota Department of Agriculture, Attention – Jodi Bechard, 523 E. Capitol Avenue, Pierre, South Dakota 57501-3182. Material sent by mail must reach the department by the close-of-business on June 3, 2011, to be considered. Persons who have special needs for which the department can make arrangements are asked to call (605) 394-2395 at least 48 hours before the hearing.

Department of Revenue: Division of Motor Vehicles: (April 28, 2011) intends to amend a rule to change the definition of a trailer. The

general authority for this rule, as cited by the department, is SDCL 32-3-57.

A public hearing will be held in the Anderson Building, Main Floor Conference Room, 445 E. Capitol Avenue, Pierre, South Dakota, on May 20, 2011, at 9:00 a.m. Copies of the proposed rule may be obtained without charge from and written comments sent to the Department of Revenue, Legal Division, 445 East Capitol Avenue, Pierre, South Dakota 57501-3185, or by emailing John.Richter@state.sd.us. Copies of the rule are also available at the department's website: <http://www.state.sd.us/drr2/DMVRules2011.pdf>. Material sent by mail must reach the department by May 30, 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) 773-4701 at least 48 hours before the hearing.

Department of Social Services: Division of Medical Services: (April 28, 2011) intends to amend rules to update definitions; modify the basis of reimbursement and reimbursement amounts for inpatient services, outpatient services, and physician and other health services; modify dispensing fees for certain items dispensed by a pharmacy or public health service provider; and clarify reimbursement methodologies. The general authority for these rules, as cited by the department, is SDCL 28-6-1, 28-6-1.1, and 21 U.S.C. 801, 812.

A public hearing will be held in Conference Room #1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on

May 19, 2011, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Laura Ringling, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Ringling may be contacted by telephone at (605) 773-3165. Written comments must be received by May 31, 2011, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the department at the time of the hearing. 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) 773-3165 at least 48 hours before the hearing.

Department of Social Services: Division of Medical Services: (April 28, 2011) intends to adopt a rule to outline reimbursement guidelines for certain cost outlier claims submitted by in-state acute care hospitals. The general authority for this rule, as cited by the department, is SDCL 28-6-1 and 28-6-1.1.

A public hearing will be held in Conference Room #1, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on May 19, 2011, at 9:30 a.m. Copies of the proposed rule may be obtained from and written comments sent to Laura Ringling, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Ringling may be contacted by telephone at (605) 773-3165. Written comments must be received by May 31, 2011, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the department at the time of the hearing. 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) 773-3165 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Randy D. Bacon, Aberdeen, was reappointed on April 20, 2011, to the **Board of Technical Professions**, effective immediately and shall continue until April 14, 2014.

Dennis B. Micko, Estelline, was appointed on April 20, 2011, to the **Board of Technical Professions**, to replace Dale Jans, effective April 15, 2011, and shall continue until April 14, 2014.

Jeffrey J. Nelson, Crooks, was appointed on April 20, 2011, to the **Board of Technical Professions**, to replace David Stafford, effective April 18, 2011, and shall continue until April 14, 2014.

Hani F. Shafai, Rapid City, was reappointed on April 20, 2011, to the **Board of Technical Professions**, effective immediately and shall continue until April 14, 2014.

Carol Cameron, Rapid City, was appointed on April 26, 2011, to the **South Dakota Advisory Council on Aging**, to replace Phyllis O'Connor, effective April 26, 2011, and shall continue until December 31, 2014.

Gayle A. Kludt, Gettysburg, was reappointed on April 26, 2011, to the **Law Enforcement Civil Service Commission**, effective immediately and shall continue until April 22, 2015.

Duane R. Mergen, Dell Rapids, was appointed on April 26, 2011, to the **State Electrical Commission**, to replace Harlan Nielsen, effective April 26, 2011, and shall continue until April 14, 2014.

Richard E. Palmer, Miller, was appointed on April 26, 2011, to the **South Dakota Advisory Council on Aging**, to replace Sally Damm,

effective April 26, 2011, and shall continue until December 31, 2014.

Gale N. Walker, Parkston, was reappointed on April 26, 2011, to the **South Dakota Advisory Council on Aging**, effective immediately and shall continue until December 31, 2014.

Timothy Bjork, Pierre, was reappointed on April 27, 2011, to the **Water Management Board**, effective immediately and shall continue until June 30, 2015.

Glenn A. Blumhardt, Bowdle, was reappointed on April 27, 2011, to the **Board of Minerals and Environment**, effective immediately and shall continue until June 30, 2015.

Peter C. Bullene, Watertown, was reappointed on April 27, 2011, to the **Board of Minerals and Environment**, effective immediately and shall continue until June 30, 2015.

Linda K. Hilde, Madison, was reappointed on April 27, 2011, to the **Board of Minerals and Environment**, effective immediately and shall continue until June 30, 2015.

Executive Order:

The Governor has signed **Executive Order 2011-08** dated April 25, 2011. The Order renews the declaration that the policy of the State of South Dakota is to provide a drug free workplace environment.

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

5-5-2011	Game, Fish and Parks	Amend a General Provisions rule to eliminate definitions for "mule buck any whitetail", "'A' license", and "R' license", and establish definitions for "agricultural purposes", "operate", and "owner-operator"; and amend Application for License rules to provide consistency in language used to describe "landowner preference" licenses; clarify landowner preference license eligibility requirements and restrictions for landowners, tenants and employees; and clarify landowner preference license eligibility requirements and restrictions for persons who own an interest in legal entities which hold title to agricultural land (shareholders of corporations, members of limited liability companies, partners in a partnership, and trust beneficiaries); 37 SDR 191.
5-9-2011	Health: Division of Health Systems Development and Regulation	Amend rules to allow employing facilities and physicians with a J-1 Visa more flexibility in scheduling work hours, to have applications submitted by facilities in an order that follows

		the federal guidelines, and to allow applications and additional information to be sent between parties by other means as approved by the department; 37 SDR 191.
5-11-2011	Social Services: Division of Economic Assistance	Amend Supplemental Nutrition Assistance Program rules to remove inapplicable provisions, remove obsolete references, and update terminology; 37 SDR 195.
5-11-2011	Social Services: Division of Economic Assistance	Amend Sales Tax on Food Refund Program rules to repeal inapplicable provisions, identify the annual enrollment period, clarify eligibility and benefit limits for former supplemental nutrition assistance benefits recipients, and update terminology; 37 SDR 195.
5-12-2011	Health: SD Board of Funeral Service	Amend 20:45:03:02 to allow students who are currently enrolled in an accredited Mortuary Science Program perform the same duties as a trainee and amend 20:45:03:03 to require some coursework in each area but not specify the exact amount; 37 SDR 181.
5-12-2011	Labor and Regulation: Division of Insurance	Amend rules to update the sources referenced in rule; incorporate the new 2011 Medicare deductibles and update the rules in accordance with federal regulations; updating cross references to SDCL 58-17C; add a trend test as a way to trigger the risk-based capital company action level for property and casualty insurers and update the sources referenced in rule; 37 SDR 195.
5-13-2011	Social Services: Division of Child Care Services	Amend Child Care Services rules to repeal obsolete rules, remove obsolete references, update terminology, add procedures for implementing and maintaining a waiting list, reduce the federal poverty level standard for determining eligibility, indicate that the department shall set reimbursement rates in the 75 th percentile subject to the availability of funds, clarify provider eligibility criteria, update the timeframe in which a household may report a change in circumstances, update the circumstances under which the department may withhold payment from a provider, clarify certain individuals ineligible to receive child care assistance, and remove duplicative provisions; 37 SDR 196.
5-16-2011	Education: Board of Education	Repeal rules to eliminate unnecessary language regarding school district general fund balances due to the repeal of statutes for excess general

		fund balance calculations; 37 SDR 187.
5-19-2011	Social Services: Division of Medical Services	Amend rules to update definitions; modify the basis of reimbursement and reimbursement amounts for inpatient services, outpatient services, and physician and other health services; modify dispensing fees for certain items dispensed by a pharmacy or public health service provider; and clarify reimbursement methodologies; 37 SDR 203.
5-19-2011	Social Services: Division of Medical Services	Adopt a rule to outline reimbursement guidelines for certain cost outlier claims submitted by in-state acute care hospitals; 37 SDR 204.
5-20-2011	Attorney General: 24/7 Sobriety Program	Amend rules to establish a definition of ignition interlock device, require the verification of installed ignition interlock devices by participating agencies, require the periodic inspection of those devices, establish standards for ignition interlock devices and permit the Attorney General to approve ignition interlock devices, clarify language regarding enrollment and placement of offenders on the 24/7 Sobriety Program, and establish fees within the range as established during the 2011 Legislative Session for twice-a-day PBT testing, urinalysis, drug testing, electronic alcohol monitoring testing, ignition interlock testing and participation fees; 37 SDR 196.
5-20-2011	Revenue: Division of Motor Vehicles	Amend a rule to change the definition of a trailer; 37 SDR 203.
5-24-2011	Agriculture: Division of Resource Conservation and Forestry	Adopt rules to set the procedures for the establishment of forest insect and disease control areas and the control measures needed to address declared forest health problems and to set procedures for establishing control areas for mountain pine beetles in the Black Hills; 37 SDR 203.
5-25-2011	Bureau of Personnel: Career Service Commission	Amend rules to clarify that the definition of "immediate family" includes step-brothers and step-sisters; clarify that a "temporary employee" is not entitled to benefits or other status rights; set time limits on the length of time that an employee is designated as "severely disabled," for purposes of the disability preference used by the Bureau of Personnel when the appointing authority must interview an applicant; revise outdated

		terminology; clarify that falsifying a time sheet is grounds for disciplinary action even without specific intent; clarify the criteria used in a layoff, the approval process by the Bureau of Personnel, and repeals the rule allowing an appeal of a layoff; update the terminology relative to the accrual, and allowed use of vacation leave, sick leave, and personal leave; and clarify that an appointing authority is not required to give prior notice to an employee of a furlough; 37 SDR 197.
5-26-2011	Bureau of Personnel	Repeal rules governing the Governor's Senior Prescription Drug Program of 2003; 37 SDR 197.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, May 10, 2011. The committee chair has set the following tentative meeting schedule for the 2011 interim: June 7, July 12, August 30, September 27, 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>.