REGISTER

South Dakota Legislative Research Council

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NOTICES OF PROPOSED RULES: (None)

NOTICE: Pursuant to SDCL §1-26A-8 the Director of the Legislative Research Council has changed the price for the subscription to the *South Dakota Register* at $25 effective with Volume 34.

FILINGS IN THE SECRETARY OF STATES OFFICE:

Executive Appointments:

Pete Bolzer, Brookings, was reappointed on April 26, 2007, to the **State Electrical Commission**, effective immediately and shall continue until April 14, 2010.

Larry Miller, Spearfish, was appointed on April 26, 2007, to the **South Dakota Board of Directors for Educational Telecommunications**, to replace David Law, effective April 26, 2007, and shall continue until June 30, 2009.

Steve Nielsen, Winner, was appointed on April 26, 2007, to the **State Electrical Commission**, to replace Todd Archambeau, effective April 16, 2007, and shall continue until April 14, 2010.

David Kallemeyn, Rapid City, was reappointed on April 30, 2007, to the **Petroleum Release Compensation Board**, effective immediately and shall continue until May 1, 2012.

Don Meyers, Mitchell, was reappointed on April 30, 2007, to the **Petroleum Release Compensation Board**, effective immediately and shall continue until May 1, 2012.

Jeffrey Henderson, Rapid City, was appointed on May 1, 2007, to the **Zaniya Project Task Force**, effective immediately and shall continue until March 1, 2008.

Francine Red Willow, Wanblee, was appointed on May 1, 2007, to the **Zaniya Project Task Force**, effective immediately and shall continue until March 1, 2008.

Tom Roberts, Pierre, was appointed on May 2, 2007, to the **Zaniya Project Task Force**, effective immediately and shall continue until March 1, 2008.

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

5-8-2007	Administration	Amend rules to increase the maximum fees chargeable for legal publications required by state law; 33 SDR 159.
5-8-2007	Secretary of State: Board of Elections	Amend rules to amend the form for registering without a South Dakota driver license or Social Security Number; amend the provisional ballot envelope statement to include date of birth and South Dakota driver license number or Social Security Number; amend the format of the general election ballot into an optical scan ballot layout; clarify the instructions to voters that are placed on optical scan ballots; clarify the vote for number on judiciary ballots; repeal the supreme court retention ballot format since this is always printed on the general election optical scan ballot; add an additional recitation of the effect of a “yes” or “no” vote on a municipal questions election ballot; amend the requirements for counting signatures on petitions; add a new rule for validity of petition signatures when signer has signed more petitions than offices to be nominated; add a new rule outlining the methodology for conducting the random sample for statewide ballot question petitions; amend the partisan election petition, petition for independent candidates, declaration of candidacy of independent candidates; amend the statewide initiative, referendum and constitutional amendment petitions by adding a new verification of circulator section; amend the certificate of nomination for independent presidential electors by removing the party affiliation requirement; amend the test of tabulating equipment by clarifying the process; amend the approval of automatic tabulating systems by removing an organization name that no longer approves the voting equipment on the federal level; amend the arrangements for and conduct of voting in precincts where automatic tabulating systems used to clarify the sealing of the ballot box; amend the tabulation procedures to indicate how the resolution board determines a mark on the ballot; amend the recount procedure by adding a new envelope for placement of excess

		ballots; direct the recount board to the rules for determining what constitutes a vote and allow the recount board to conduct additional tests of the tabulation equipment; amend the wording on the envelope for official returns; clarify what constitutes an optical scan vote; amend the application for absentee ballot to include the personal identification affidavit option for voting absentee in the office of the person in charge of the election; amend the official return envelope by removing an old effective date reference and increasing the amount of the fine for impersonating a registered voter; amend the envelopes used with voting service and overseas ballot to be in the proper format of the federal regulations and increase the fine amount for impersonating a registered voter; amend the language for write-in ballot determination; clarify what constitutes a hand counted paper ballot vote; clarify the sealing of the ballot box process; repeal the use of paper seals on ballot box and amend the form of the paper seal; 33 SDR 172.
5-9-2007	Labor: Cosmetology Commission	Amend rules to amend the fee structure to reflect the law change; increase certain licensing fees; allow new documentation types for a license; clarify the documentation for a junior and senior license; repeal all references to manager license to comply with the law change; add a waiver of examination for reciprocity; update the school textbook information; amend student hours earned in a school; amend school record requirements; require a senior instructor to accompany student; and set educational requirements for the junior and senior instructor licenses; 33 SDR 172.
5-9-2007	Environment and Natural Resources: Water Management Board	Amend a rule to designate Spearfish Creek in Lawrence County as an outstanding state resource waters; 33 SDR 177.
5-10-2007	Game, Fish and Parks	Amend Archery Restrictions rules to add an exception for bows with draw-lock devices in accordance with legislation enacted during the 2007 legislative session; clarify that arrow length is a measurement from the notch of the nock to the end of the arrow shaft, not including the tip or broadhead; modify the legal description of “broadhead” to allow for

		use of “Turkey Guillotines” for turkey hunting; move the restriction of telescopic sights and lighted sights to the archery equipment restriction section; and add a concealed pistol exception to the firearm possession restriction; amend Archery Deer Hunting Season to change the season opening date, to retain license maximums per hunter on “any deer” licenses but remove the restriction on the maximum number of “antlerless” licenses and impose a restriction that sets the maximum allowable number of licenses at five (5) per hunter, regardless of type, and would remove references to specific license types available for use on the Adams Homestead and Nature Preserve and designate that 50 “resident archery licenses” will be available through the Park Office; amend Youth Deer Hunting Season to increase the number of licenses that hunters may possess from two (2) to five (5); amend General Muzzleloading Deer Hunting Season to increase the number of licenses that hunters may possess from two (2) to five (5), and add a new unit with zero licenses available; amend Uses of Parks and Public Lands to repeal ARSD 41:03:01:08 (which prohibits construction or maintenance of any type of dock or float on public waters within any park or recreational area without permission of the department secretary or his designee) from ARSD 41:03:01 and move it, with refinements, to ARSD 41:04:04 which deals specifically with regulation of docks; amend Docks to revise the current definition of “dock”; add the term “floating dock” (diving platform, ski jump, or similar structure) to the list of chapter definitions; add the term “boat lift” to the list of chapter definitions; add “and boat lift” to the title; increase the length of a legal dock not requiring a variance permit issued by the department from 45 feet to 60 feet; insert the term “boat lift” where necessary; add a provision requiring any person who intends to place a dock that extends over the water more than 60 feet to sign a Release and Waiver of Liability form provided by the State of South Dakota, in addition to the dock variance permit issued by

		the department; include factors used in consideration for approving variance permits; add language exempting department concessionaires and lease holders from dock/boat lift standards and variance permit provisions, provided the docks are authorized by the department; insert the term “floating dock(s)” where necessary and change the hours a floating dock must be flagged from “daylight hours” to “from sunrise to one-half hour after sunset,” which reconciles the proposed change with language found elsewhere in the rule; insert the term “floating dock(s)” where necessary; add a new section which will prohibit persons from placing a dock or floating dock on, in, or over any public waters with certain specified exceptions and under certain specified conditions; amend Public Waters to change the designation of the waters fronting on that portion of Blue Dog Lakeside Use Area beginning at the east property boundary and extending 300 feet westerly along the shoreline from a “public swimming zone” to a “no wake zone;” amend Park Licenses to repeal exemptions from park entrance license requirements at Farm Island Recreation Area, Oahe Downstream Recreation Area, West Bend Recreation Area, and Cow Creek Recreation Area from September 11, 2006, through September 18, 2006, inclusive, and at Rocky Point Recreation Area on July 11, 2006, and July 16, 2006, inclusive; and create one season long entrance license fee structure at Custer State Park; and amend Camping Permits rules to increase the daily modern campground fee at Custer State Park campgrounds (i.e., Game Lodge, Sylvan Lake, Grace Coolidge, Legion Lake, Stockade North, Stockade South and Blue Bell) to $16.19 effective January 1, 2008, and to $17.14 effective January 1, 2009, and would reduce the fee by $2.00 during cold weather when restroom and shower facilities are closed; increase the semi-modern campground daily fee at Custer State Park to $14.29 effective January 1, 2008, and to $15.24 effective January 1, 2009, and would reduce the fee by $2.00 during cold weather when

		restroom and shower facilities are closed; increase the daily fee at Custer State Park French Creek Natural area to $3.81 for each person; establish a daily camping cabin fee at Custer State Park of $40.95 per cabin increasing to $42.86 effective January 1, 2008; increase the group camping area daily fee at Custer State Park to $4.00 per person for overnight use and increase the minimum daily fee to $80.00; and increase the Custer State Park, French Creek Horse Camp daily fee to $19.05 effective January 1, 2008, and to $20.00 effective January 1, 2009; 33 SDR 178.
5-14-2007	Attorney General	Adopt rules to establish the 24/7 Sobriety Program; 33 SDR 178.
5-15-2007	Social Services: Child Support	Adopt a rule to specify that the Department is subject to a $25 annual fee for each case in which an individual has never received TANF assistance and for whom the state has collected and disbursed at least $500 in support payments; 33 SDR 178.
5-15-2007	Social Services: Child Protection Services	Amend rules relating to Group Care Centers to define “seclusion” and substitute that term for the term “locked time out”; require that the lighting fixture in a room used for seclusion be screened or designed and installed to prevent tampering; and require that the locking mechanism for a room used for seclusion be designed to be fail-safe and tied into the fire alarm system to release when the alarm is activated or when there is a loss of power to the fire alarm panel; amend residential treatment center rules to define “licensed practitioner”; require a residential treatment center to meet the federal requirements for a psychiatric residential treatment facility for individuals under the age of 21; specify that whenever the term “licensed practitioner” is used in the federal regulations, it has the same meaning as has been defined by the Department; require facilities to have policies for the use of emergency safety intervention; change from one month to 14 days the length of time within which a facility must develop a written case service plan for a child in care; require that the case service plan be signed by each of the individuals involved in its development, that it be updated at least every

		30 days, and that the facility provide a copy of the updated plan to the placement agency; delete an incorporated reference to the monitoring of a room used for seclusion; and specify who may conduct a face-to-face assessment when a facility has used emergency safety intervention; amend intensive residential treatment centers (IRTC) rules to define "licensed practitioner" and specify that whenever the term is used in the federal requirements, it has the same meaning as has been defined by the Department; require an IRTC to meet the federal requirements of a psychiatric residential treatment facility for individuals under the age of 21; require a treatment team to review a child's case service plan at least once every 30 days instead of once every three months; delete an incorporated reference to the monitoring of rooms used for seclusion; require an IRTC to develop written policies concerning the use of emergency safety intervention; delete a requirement that facilities send progress notes to the child's placement agency; and specify who may conduct a face-to-face assessment when a facility has used emergency safety intervention; 33 SDR 187.
5-16-2007	Revenue and Regulation: Business Tax, Motor Vehicles, and Special Taxes	Amend Business Tax rules to update laws regulation is based on; comply with Streamlined Agreement – repeal of definition for Multiple Points of Use, add defined terms to telecommunications services for use in determining where sales tax applies, adopt sourcing rules for Internet access services and ancillary services and updates the term used for mobile telecommunications prepaid wireless calling services to prepaid wireless calling services; provide that parts, repairs, maintenance items and service on rental inventory are subject to sales tax; define Ancillary services, telecommunications services, and Interstate services; define gross receipts including criteria as to when coupons and discounts are included in the gross receipts; amend Motor Vehicles rules to make forms available; amend Special Taxes rules to allow industry members to provide any device, equipment, or item that will prevent the sale of

		alcohol to anyone not legally able to purchase it; 33 SDR 177.
5-17-2007	Revenue and Regulation: Division of Insurance	Adopt and amend rules to terminate an enrollee's coverage in the risk pool for the commission of fraud; 33 SDR 187.
5-21-2007	Education: Board of Education	Adopt and amend rules to define a course equivalency exam, to require a state approved end of course exam for all waived courses, create guidelines for the administration of the course equivalency exam, and update the Special Education rules to assure they are aligned clearly with changes to IDEA; 33 SDR 188.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, May 15, 2007, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2007 interim: May 15, June 5, August 21, September 27, December 4, and January 7, 2008.

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.

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