

REGISTER

South Dakota Legislative Research Council



Volume 37

Monday, 8:00 a.m., April 4, 2011

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

Department of Labor: South Dakota Electrical Commission: (March 29, 2011) intends to amend rules to adopt the 2011 National Electrical Code (the "2011 NEC"); define terms; determine the passing examination score for a Class B Electrician; clarify the terminology for an application for licensure; remove the terminology of "industrial"; clarify the standards and documentation required to attain levels of licensure; implement rule allowing for the recovery of costs; removal of 30 days grace period in regards to reinstatement fee for lapsed licenses; document the changes to allowable continuing education courses and the number of hours allowed; removal of requirement to print courses in newsletter; addition of the word "calculated" when considering the requirement for a permit; address fee administration for wiring permits and inspections; document the inspection notification process; clarify the state license required to attain a municipal license; repealing of a rule requiring ground fault circuit interrupter near wash basins as it is required in the 2011 NEC; and addressing an incorrect reference as to the permit requirement for cogeneration systems. The general authority for these rules, as cited by the commission, is SDCL 36-16-12, 36-16-13, 36-16-13.3, 36-16-17, 36-16-29, 36-16-30, and 36-16-38.

A public hearing will be held in Room 412, 4th floor, State Capitol, Pierre, South Dakota, on April 21, 2011, at 10:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to the State Electrical Commission, 308 S. Pierre Street, Pierre, South

Dakota 57501. Written comments must be received by April 20, 2011, to be considered. Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-3573 at least 48 hours before the hearing.

Department of Health: South Dakota Board of Funeral Service: (March 31, 2011) intends to 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. The general authority for these rules, as cited by the board, is SDCL 36-19-9.

A public hearing will be held in the Crystal Room at the Ramkota Hotel & Conference Center in Sioux Falls, South Dakota on May 12, 2011, at 2:00 p.m. CT (1:00 p.m. MT). Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Funeral Service, 810 N. Main #298, Spearfish, SD 57783. Written comments must reach the board by May 6, 2011, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the board can make arrangements are asked to call (605) 642-1600 at least 48 hours before the hearing.

Department of Transportation: (March 31, 2011) is proposing to amend a speed zone in the town of Gregory in Gregory County on South Dakota Highway 47 to reduce the speed limits on a segment of highway. The general authority for this rule, as cited by the department, is SDCL 32-25-7.

A public hearing will be held in the Commission Room of the Becker Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota, on April 28, 2011, at 9:05 a.m. CDST. Copies of the proposed rule may be obtained without charge from and written comments sent to the Secretary of Transportation, Becker-Hansen Building, 700 East Broadway Avenue, Pierre, South Dakota 57501-2586. Material sent by mail must reach the department by April 27, 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) 773-3540 or 1-800-877-1113 (Telecommunication Device for the Deaf).

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF SOCIAL SERVICES: 67:11:01:03.

History-Notice: 37 SDR 171, March 21, 2011
Hearing: N/A
Filed: March 25, 2011
Effective: March 25, 2011

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: BOARD OF MINERALS AND ENVIRONMENT: 74:36:01:01, 74:36:01:08, 74:36:01:15; 74:36:09:02, 74:36:20:02, and 74:36:20:02.01.

History-Notice: 37 SDR 139, January 24, 2011
Hearing: February 17, 2011
Filed: March 31, 2011
Effective: April 20, 2011

DEPARTMENT OF GAME, FISH AND PARKS: 41:03:01:25; 41:04:02:09, 41:04:02:49, 41:04:02:66; and 41:05:02:52.

History-Notice: 37 SDR 143, January 31, 2011
Hearing: March 3, 2011
Filed: March 31, 2011
Effective: April 20, 2011

DEPARTMENT OF TRANSPORTATION: 70:01:02:01(19), 70:01:02:44(17); and 70:01:03:35.

History-Notice: 37 SDR 143, January 31, 2011
Hearing: February 24, 2011
Filed: March 31, 2011
Effective: April 20, 2011

ATTORNEY GENERAL: LAW ENFORCEMENT OFFICERS STANDARDS AND TRAINING COMMISSION: 2:01:06:05; 2:01:13:01; and 2:01:14:01 to 2:01:14:10, inclusive.

History-Notice: 37 SDR 139, January 24, 2011
Hearing: February 17, 2011
Filed: April 1, 2011
Effective: April 21, 2011

Executive Appointments:

Jeffrey P. Marlette, Box Elder, was appointed on March 23, 2011, to the position of **Assistant Adjutant General, Army**, effective April 2, 2011.

Thomas B. Burchill, Sioux Falls, was reappointed on March 25, 2011, to the **Board of Economic Development**, effective immediately and shall continue until April 19, 2015.

Donald L. Kettering, Yankton, was appointed on March 25, 2011, to the **Board of Economic Development**, effective April 20, 2011, and shall continue until April 19, 2015.

Theodore H. Hustead, Wall, was appointed on March 28, 2011, to the **Board of Economic Development**, effective April 20, 2011, and shall continue until April 19, 2015.

Jerry Prostrullo, Madison, was appointed on March 29, 2011, to the **Board of Economic Development**, effective immediately and shall continue until April 19, 2015.

Mark W. Anderson, Sioux Falls, was appointed on March 31, 2011, to the **Corrections Commission**, to replace Paul Aylward, effective March 30, 2011.

Terance J. Fonder, Sioux Falls, was appointed on March 31, 2011, to the **South Dakota Interagency Coordinating Council**, to replace Monica Mayer, effective March 28, 2011, and shall continue until December 31, 2014.

Dawn K. Leibel, Glencross, was appointed on March 31, 2011, to the **South Dakota Interagency Coordinating Council**, effective March 28, 2011, and shall continue until December 31, 2014.

Kent E. Munden, Rapid City, was appointed on March 31, 2011, to the **South Dakota Ellsworth Development Authority**, to replace Jeffery Erickson, effective March 30, 2011, and shall continue until January 16, 2012.

Executive Order:

The Governor has signed **Executive Order 2011-06** dated March 29, 2011. This order declares that the offices for state government, within the executive branch, shall be administratively closed on Good Friday, April 22, 2011.

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

4-7-2011	Labor: South Dakota Retirement System	Amend rules to clarify a "reentry" into the System for purposes of redeposit; explain the application of member "years of service" after a participating unit is privatized; establish when a retired member may choose to alter the member's choice of annuity options; set out a refunding member's rollover options; clarify a member's ability to continue the additional survivor protection program; and adopt the federal "reasonable and good faith" safe harbor for distributions from SDRS programs; 37 SDR 171.
4-7-2011	Game, Fish and Parks	Amend a Uses of Parks and Public Lands rule to remove the requirement that the shooting range on the Rollings Game Production Area in Lincoln County be supervised during those times when it is open to the public; amend an Archery Deer Hunting Season rule to adjust the season dates from "the fourth Saturday of September to January 31" to "the fourth Saturday of September to January 15"; amend a Black Hills Elk Hunting Season rule to adjust the number of licenses available from 495 "any

	<p>elk" and 570 "antlerless elk" licenses (total of 1,065 licenses) to 470 "any elk" and 395 "antlerless elk" licenses (total of 865 licenses; amend a Custer State Park Elk Hunting Season (Any Elk) rule to adjust the number of licenses available from 21 "any elk" licenses to 11 "any elk" licenses; amend a Custer State Park Early Archery Elk Hunting Season rule to adjust the number of licenses available from 5 "any elk" licenses to 3 "any elk" licenses; amend a Custer State Park Deer Hunting Season rule and a License Forms and Fees rule to modify the type of license available in Unit CUD-CU1 from 10 "any whitetail deer and an antlerless whitetail deer" licenses to 10 "any whitetail deer licenses"; reduce the number of available licenses in Unit CUD-CU3 from 35 two-tag "muzzleloader antlerless whitetail deer licenses" to 35 one-tag "muzzleloader antlerless whitetail deer licenses"; establish the license fee for the one-tag Custer State Park "any whitetail deer" license at \$150 and the license fee for the Custer State Park "muzzleloader whitetail antlerless deer" license at \$25; amend an Archery Elk Hunting Season rule to establish the number of licenses for "any elk" and "antlerless elk" (Black Hills Units and Unit 30A) licenses by adjusting the number of licenses available from 96 "any elk" and 49 "antlerless elk" licenses (total of 145 licenses) to 89 "any elk" and 37 "antlerless elk" licenses (total of 126 licenses); amend a Youth Deer Hunting Season rule to adjust the season dates from "the second Saturday of September to January 31" to "the second Saturday of September to January 15"; amend a General Muzzleloading Deer Hunting Season rule to adjust the season dates from "the second Saturday of December to January 31" to "December 1 to January 15"; amend a Special Custer State Park Antlerless Elk Hunting License rule to close the special Custer State Park antlerless elk season for 2011; amend a Custer State Park Late Archery Elk Hunting Season rule to reduce the number of "any elk" licenses available from 30 licenses to 15 licenses; amend a Black Hills Bighorn Sheep Hunting Season rule to reduce the</p>
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		<p>number of licenses available in Unit "1" from 4 "any bighorn sheep" licenses to 2 "any bighorn sheep" licenses; amend a Prairie Elk Hunting Season rule for "any elk" and "antlerless elk" licenses (Units 09A, 11A, 11B, 11C, 15A, and 30A) to adjust the total number of licenses available from 50 "any elk" and 86 "antlerless elk" licenses (total of 136 licenses) to 49 "any elk" and 79 "antlerless elk" licenses (total of 128 licenses); modify Unit 11 (Bennett County) to include that portion of Mellette County south of Highway 44 and west of Highway 83; adjust the start date of Unit 11A from August 1 to July 15; and adjust the season dates for Unit 15A (portions of Butte County) to begin on the second Saturday of September through October 31 and from December 1 – 31; amend Persons with Disabilities rules to make persons who have a developmental disability as defined in SDCL 27B-1-18 eligible for a reduced fee fishing license and provide for a procedure which would allow an applicant with a developmental disability to submit an official letter or form from the South Dakota Department of Social Services documenting the person's developmental disability and eligibility for services in lieu of submitting a written statement from a doctor of medicine, osteopathy, or chiropractic with their application for a reduced fee fishing license; and amend a Hunting Requirements and Prohibited Methods rule to require use of nontoxic shot for hunting small game on public road rights-of-way; 37 SDR 175.</p>
4-12-2011	Public Safety: Office of the State Fire Marshal	Amend rules to adopt the 2009 edition of the International Building, Fire, and Mechanical Codes as the fire safety standards for the Department of Public Safety; 37 SDR 165.
4-21-2011	Agriculture: SD Weed & Pest Control Commission	Amend a rule to add flowering rush to the local noxious weed and declared pest list; 37 SDR 165.
4-21-2011	Labor: SD Electrical Commission	Amend rules to adopt the 2011 National Electrical Code (the "2011 NEC"); define terms; determine the passing examination score for a Class B Electrician; clarify the terminology for an application for licensure; remove the terminology of "industrial"; clarify

		the standards and documentation required to attain levels of licensure; implement rule allowing for the recovery of costs; removal of 30 days grace period in regards to reinstatement fee for lapsed licenses; document the changes to allowable continuing education courses and the number of hours allowed; removal of requirement to print courses in newsletter; addition of the word "calculated" when considering the requirement for a permit; address fee administration for wiring permits and inspections; document the inspection notification process; clarify the state license required to attain a municipal license; repealing of a rule requiring ground fault circuit interrupter near wash basins as it is required in the 2011 NEC; and addressing an incorrect reference as to the permit requirement for cogeneration systems; 37 SDR 181.
4-28-2011	Transportation	Amend a speed zone in the town of Gregory in Gregory County on South Dakota Highway 47 to reduce the speed limits on a segment of highway; 37 SDR 181.
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.

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>.