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South Dakota Legislative Research Council

Volume 40

Monday, 8:00 a.m., November 4, 2013

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

Department of Revenue: Commission on Gaming: (October 28, 2013) is proposing to amend Racing rules to establish a deadline for filing a request for a hearing and for the stewards to issue a final ruling as well as the procedures for requesting the hearing; repeal a rule regarding the approval required for communication devices; repeal a rule to relieve track management of the cost of installing a telephone landline in the commission office for a few weeks a year; require tracks to provide safety vests to track employees while on duty; update current industry practices and terminology; require the person who enters a horse in a race or who accepts such an entry by telephone to sign the entry form and to reflect current industry practices and terminology; eliminate unnecessary record keeping regarding Furosemide; eliminate a bleeder list; remove a requirement to conduct an endoscopic examination at the race track within one hour of a race or exercise period; remove the requirement to maintain unnecessary records; give more time for changes of medication treatment to be reported to the betting public and the elimination of the "oath" requirement; repeal a rule that conflicts with ARSD 20:04:27:13.07; eliminate reference to "the official bleeder list" which is no longer maintained; allow veterinarians to administer Furosemide to prevent bleeding in race horses in a more efficient manner and eliminates the requirement for keeping unnecessary records; inform persons of the procedures to request a hearing on disqualification; amend Gaming Rules to clarify minimum bankroll

requirements; change the length of record retention from five years to three years; allow the linking of progressive slot machines in Deadwood, SD, to progressive slot machines located in other jurisdictions where such games are allowed; and provide procedures to allow third-party connections to licensees on-line monitoring and control systems. The general authority for these rules, as cited by the commission, is SDCL §§ 42-7-56 and 42-7B-7.

A public hearing will be held at the City Hall, 102 Sherman Street, Deadwood, South Dakota, on November 20, 2013, at 9:00 a.m. MT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Commission on Gaming, 221 West Capitol Avenue, Suite 101, c/o 1320 East Sioux Avenue, Pierre, South Dakota 57501-3100. Materials sent by mail must reach the Commission on Gaming by November 18, 2013, to be considered. However, the Commission requests that all written comments be received by November 11, 2013, to allow for adequate consideration prior to the hearing. This hearing is being held in a physically accessible place. Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-6050 or (605) 578-3074 at least 48 hours before the hearing.

Department of Revenue: Division of Property and Special Taxes: (October 29, 2013) intends to amend rules to update manuals to current version and ensure that the language of the rules is consistent. The general authority for these rules, as cited by the department, is SDCL § 10-1-16.1.

A public hearing will be held in the Anderson Building, Room 109, 445 E. Capitol Avenue, Pierre, South Dakota, on November 26, 2013, at 9:00 a.m. Copies of the proposed rules 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 Stacy.Hegge@state.sd.us. Copies of the rules are also available at the department's website:

<http://dor.sd.gov/publicnotices/PTRules2013.pdf>

Material sent by mail must reach the department by December 6, 2013, 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 Agriculture: State Brand Board: (October 31, 2013) intends to amend rules to authorize the issuance of annual permits for the transportation of rodeo stock. The general authority for these rules, as cited by the board, is SDCL §§ 40-18-16 and 40-20-4.4.

A public hearing will be held in the Matthew Training Center, first floor of the Foss Building, 523 East Capitol Avenue, Pierre, South Dakota, on November 20, 2013, at 10:30 a.m. CST. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota State Brand Board, 209 W. Dakota Avenue, Pierre, South Dakota 57501. Written comments must be received by the board no later than November 18, 2013, 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) 773-3324 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Order:

The Governor has signed **Executive Order 2013-18**, dated October 31, 2013, to deal with the damage from the severe winter storm and snowstorm and flooding. Under the authority of SDCL Chapter 34-48A, Emergency Management, the Governor declared a disaster to exist in Butte, Corson, Custer, Dewey, Fall River, Haakon, Harding, Jackson, Lawrence, Meade, Pennington, Perkins, Shannon, and Ziebach counties and the Cheyenne River Sioux Tribe within Dewey and Ziebach counties as well as the Pine Ridge Reservation within Jackson and Shannon counties for three months from the date of this executive order.

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

11-6-2013	Governor's Office of Economic Development	Amend rules to bring the certification criteria into line with industry standards relating to utility, transportation, and environmental program requirements; 40 SDR 67.
11-7-2013	Game, Fish and Parks	Amend rules to add Sheps Canyon Horse Camp to the list of areas that require an equestrian campground fee and increase

		<p>camping permit fees; increase the fees to reserve picnic shelters, purchase firewood, adjust the fees to use certain park facilities and authorize fees for new services and facilities; raise resident and nonresident hunting and fishing license fees; add a new section which, with certain exceptions for law enforcement and emergency personnel, would prohibit the use of external felt soled footwear including boots and waders in the waters of the state; change the statewide possession limits for all species in inland waters from two to three times the daily limit; change the possession limit for yellow perch from 15 to 30 fish on South Dakota-Minnesota boundary waters; add East and West Heritage GPS ponds to the list of waters with a 15-inch minimum length limit for largemouth and smallmouth bass and remove current walleye limits on Lake Oahe of 8 daily of which at most four can be 15 inches or longer in length, and 24 in possession, and instead apply statewide walleye harvest restrictions; modify ARSD 41:07:06:01 to include spearing of rough fish in South Dakota-Minnesota boundary waters and repeal ARSD 41:07:06:01.02 pertaining to spearing rough fish in South-Dakota-Minnesota boundary waters; modify ARSD 41:07:06:03 to remove subsection (7) which allows game fish spearing in certain waters in Eastern South Dakota, add South Island Lake and county designations for North and South Island Lakes which allows northern pike to be taken in inland waters except those managed for muskies; revise language that allows the director of the Division of Wildlife to temporarily open game fish spearing for special events areas otherwise closed to game fish spearing; modify ARSD 41:09:04:02.02 pertaining to species that may be taken as bait for commercial use to allow emerald shiners and spottail shiners to be taken and sold by any licensed resident bait dealer or sold by any licensed nonresident bait dealer; modify ARSD 41:09:04:02.04 pertaining to species that may be taken as bait for noncommercial use to allow golden shiners, emerald shiners, spottail shiners and dead gizzard shad to be</p>
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		transported away from the water from which they were taken to be used as bait; modify ARSD 41:09:04:03 pertaining to waters closed to the taking of bait; 40 SDR 67.
11-13-2013	Health: Board of Medical and Osteopathic Examiners	Adopt rules to create the standards in which an applicant can be issued a license through reciprocity and to allow provisional licenses to those requesting the examination waiver based on ABMS Board Certification; 40 SDR 73.
11-15-2013	Labor and Regulation: Appraiser Certification Program	Amend rules to require notice of change of email address; include in the appraiser application a requirement to disclose email address, if available; completion of the supervisory and state-registered appraiser education program before supervision begins; state that nonclient appraisal experience is allowed for experience credit; change supervising to supervisory appraiser; adoption of the new edition of the uniform standards; change a cited statute; provide update conditions for continuing education; and allow partial hours for continuing education under certain circumstances; 40 SDR 73.
11-18-2013	Education: Board of Education	Adopt a Funding rule to allow school districts to use special education funds to pay for administrative expenses incurred by educational service cooperatives as a result of providing special education service; 40 SDR 77.
11-20-2013	Revenue: Commission on Gaming	Amend Racing rules to establish a deadline for filing a request for a hearing and for the stewards to issue a final ruling as well as the procedures for requesting the hearing; repeal a rule regarding the approval required for communication devices; repeal a rule to relieve track management of the cost of installing a telephone landline in the commission office for a few weeks a year; require tracks to provide safety vests to track employees while on duty; update current industry practices and terminology; require the person who enters a horse in a race or who accepts such an entry by telephone to sign the entry form and to reflect current industry practices and terminology; eliminate unnecessary record keeping regarding Furosemide; eliminate a bleeder list; remove a requirement to conduct an endoscopic examination at the race track

		<p>within one hour of a race or exercise period; remove the requirement to maintain unnecessary records; give more time for changes of medication treatment to be reported to the betting public and the elimination of the "oath" requirement; repeal a rule that conflicts with ARSD 20:04:27:13.07; eliminate reference to "the official bleeder list" which is no longer maintained; allow veterinarians to administer Furosemide to prevent bleeding in race horses in a more efficient manner and eliminates the requirement for keeping unnecessary records; inform persons of the procedures to request a hearing on disqualification; amend Gaming Rules to clarify minimum bankroll requirements; change the length of record retention from five years to three years; allow the linking of progressive slot machines in Deadwood, SD, to progressive slot machines located in other jurisdictions where such games are allowed; and provide procedures to allow third-party connections to licensees on-line monitoring and control systems; 40 SDR 85.</p>
<p>11-20-2013</p>	<p>Agriculture: Brand Board</p>	<p>Amend rules to authorize the issuance of annual permits for the transportation of rodeo stock; 40 SDR 86.</p>
<p>11-21-2013</p>	<p>Transportation</p>	<p>Amend a General Provisions rule to add definitions for construction contract and prospective bidder and delete the definition for department contract; amend Classification and Bidding Capacity Rating rules to allow the Secretary of Transportation to appoint a temporary alternate to the classification and rating committee if a member is unavailable, eliminate the requirement for the department to maintain a list of all bidding proposals for every letting, increase the threshold for requiring prequalification of bidders from \$100,000 to \$200,000, change the terms "contractor" and "applicant" to "prospective bidder", require a citation for specific statutory exemption from disclosure of confidential financial records, work classifications are being amended to update work types and add a classification for bridge painting, establish the maximum per contract bidding capacity when an audited financial statement is submitted,</p>

	<p>amend the effective period for a bidding capacity rating to coincide with the expiration date of the surety bond or expiration of the certificate of surety and increase the permissible extension period from 30 to 60 days, clarify that a reduction in bidding capacity for uncompleted work on other contracts is for bonded work, clarify allowable deduction factors and how deductions may be applied, increase the maximum possible period of ineligibility and conform to federal requirements, define the potential maximum period of ineligibility, update the term "prospective bidder" and make additional clarifications, provide for appeal by a timely request to the Secretary to review a determination of the classification committee, and a decision within 5 days thereafter, rather than a formal Chapter 1-26 hearing process, clarify when the new prequalification statement must be received, clarify the time period for submission of a new prequalification statement, establish the process for a prospective bidder to retain or revise their prequalification status, clarify what prior work experience will be considered by the committee when establishing a bidding capacity rating, amend Bid Proposals rules to eliminate superfluous provisions and include Region lettings, update the term "prospective bidder", repeal a redundant rule regarding preference among multiple bid proposals, repeal a rule that is no longer necessary due to the new electronic bidding system; amend Suspension and Debarment rules to update language as reflected in the new definitions, clarify the suspension is from bidding construction contracts, eliminate reference to a hearing officer, clarify the effective date of debarment, clarify that only one of the three circumstances need to apply in a particular situation, correct references to other rules and remove the restriction on subcontracting, establish the factors for which the department can suspend or deny a contractor's prequalification status, establish the period of suspension of a contractor's prequalification status, establish the procedure by which a</p>
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		suspended contractor may restore their prequalified status following the suspension period, and repeal Highway Construction Contract Requirements rules because the requirements are in the Standard Specifications for Roads and Bridges; 40 SDR 77.
11-22-2013	Labor and Regulation: Board of Technical Professions	Amend rules to add deadlines for national examinations that will be moved to computer based testing (CBT); affirm deadlines to the Board's own examinations; remove fees collected by the Board for examinations that it no longer proctors; establish a fee in the event of an applicant having to retake the petroleum release assessor or remediator examination; and clarify Comity licensure and examination requirements; 40 SDR 77.
11-26-2013	Revenue: Property and Special Taxes	Amend rules to update manuals to current version and ensure that the language of the rules is consistent; 40 SDR 85.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, November 12, 2013, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor, of the State Capitol. Other DDN sites will be: Huron – DHS, 2361 Dakota Ave. S; Mitchell – Mitchell Technical Institute, 1800 E. Spruce, Room TC 155; Rapid City – SD School of Mines & Technology, 501 E. St. Joseph St., Room BC 109; and Yankton – DOT, 1306 W. 31st St. The committee chair has set the following tentative meeting schedule for the 2013 interim: December 17.

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>.

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