

South Dakota

Fire Laws

Firefighters

Field Guide



Revised (May 2008)

SOUTH DAKOTA FIRE LAWS
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South Dakota Fire Laws

Field Users Guide

(Revised May 2008)

FIRE SAFETY IN SCHOOL BUILDINGS

13-25-1. Construction and maintenance of buildings in safe condition required--Matters considered. In addition to all other requirements provided by law, every public or nonpublic school, or private institution operating a school shall be subject to the provisions of this chapter and shall be constructed, equipped, operated, and maintained in a safe condition so as to provide for the safety of all persons employed, accommodated, housed, or assembled therein, with respect to the type of construction and materials used, fireproofing, the number and types of ways of egress, aisles and passageways, stairs and fire escapes, wall openings, exits and exit signs, doors and doorways, shaft ways and other vertical openings, fire alarm systems, electrical equipment, flammable and explosive materials, heating systems and fuel storage, numbers of occupants, ventilation, and all other emergency protection.

13-25-2. Rules authorized to implement fire safety. The secretary of public safety may promulgate rules in accordance with chapter 1-26 to protect the health and safety of persons from fire and like emergencies in order to facilitate and implement the purposes of this chapter.

13-25-3. State Fire Marshal's power to inspect buildings. The State Fire Marshal may make inspection of all school buildings, auditoriums, gymnasiums, dormitories, shops, or other buildings operated as a part of or in conjunction with school activities of any school, public or nonpublic, whether owned by the school or not.

13-25-4. Periodic inspection by State Fire Marshal--Conditions. The State Fire Marshal shall inspect or cause to be inspected all buildings on a periodic basis of not less than two years for the purpose of fire safety and fire prevention. The inspection shall be made upon the conditions set forth in §§ 13-25-5 and 13-25-6.

13-25-5. School building access for inspection--Aid and assistance by school officials. Representatives of the State Fire Marshal may enter any such building at any reasonable hour to make such inspection. All school boards, school governing bodies, officials, and employees shall afford such representatives free access to every part of the premises, and render all aid and assistance necessary to enable them to make a thorough and complete examination of the premises.

13-25-6. Report of fire inspections--Distribution of copies. After the completion of such inspection, the person making the same shall reduce the report of his findings to writing, which shall list all violations of fire protection laws discovered by such inspection, and he shall deliver a copy thereof to the school governing body or its representative of the district or other agency operating such school, and the original shall be filed with the Department of Public Safety.

13-25-7. Order to school board to eliminate hazardous conditions--Time allowed to comply. If after such inspection of any school, or school facility, as provided by this chapter, the inspector finds the building unsafe by reason of conditions existing therein which are suitable for causing or spreading fire, or engendering panic, or that the building has defects which are dangerous to the occupants therein, from a fire and life safety standpoint, he shall give a written order to the school governing body, or other agency operating such school or school facility, specifying these hazards, and the hazards to be eliminated. The school board, or governing body shall comply with such order within such time as may be allowed by the State Fire Marshal, which in no case shall be less than thirty days from and after the service of such order by registered or certified mail.

13-25-8. Repealed by SL 1991, ch 139, § 7

13-25-8.1. Aggrieved schools' demand for hearing--Conduct of proceedings. Any school governing body, or other agency operating a school aggrieved by an order issued pursuant to § 13-25- 7 may, within ten days after receipt thereof, demand a hearing by serving the secretary of public safety a copy of the demand. The secretary of public safety shall set a hearing date which shall be within twenty days of receiving the demand. The secretary shall notify the aggrieved party thereof at least ten days prior to the hearing. The proceedings shall be conducted as in contested cases and appeal may be made as provided by chapter 1-26.

13-25-9. Authority to close school or vacate building if hazards not eliminated. If any school governing body, or other agency operating a school, fails to comply with the order provided by § 13- 25-7, and fails to appeal from the order, as is provided in § 13-25-8, after the time for appeal has expired, or the time to comply with the order has passed, whichever is later, the State Fire Marshal may immediately close the school or school facility to further use or occupancy, and may vacate and place out of service said school or school building, or facility until such time as its requirements are fulfilled.

13-25-10. Evacuation drills. Each school board shall have evacuation drills in each school under their jurisdiction. There shall be at least two fire exit drills each semester of the school year in schools through grade twelve. During such drills all personnel and all pupils shall completely leave the building and move to a safe distance therefrom. All superintendents, principals, teachers, instructors, and employees shall be thoroughly instructed in respect to duties under these evacuation drills. Each superintendent of schools or official in charge shall maintain a record of the dates and evacuation times of the evacuation drills conducted on the form provided by the Department of Public Safety. This record shall be available for inspection by a representative of the State Fire Marshal upon request. The appointed representative of the State Fire Marshal, or the local fire chief or his designee may conduct evacuation drills at any school or institution, both public and private, in order to test the effectiveness of the warning system and the evacuation plan.

13-25-11. Installation of automatic fire alarm equipment--Time requirements. All public school districts shall install state approved fire alarm equipment in all public school attendance centers which shall be connected so that on-site alarms and fire department notification shall automatically be instituted in the event of fire. The alarm systems required in this section shall be installed, inspected, and operative by July 1, 1987.

13-25-12. Exemption of certain remote small public school attendance centers from fire alarm provisions by state fire marshal. If the state fire marshal finds that due to the remote location of the public school attendance center the response time of the local fire department makes saving the attendance center from extensive fire damage unlikely, he may exempt certain remote small public school attendance centers from the provisions of §§ 13-25-11 and 13-25-8.

13-25-13. Rules authorized for implementation of school fire alarm installations. The State Fire Marshal may adopt rules, pursuant to chapter 1-26, for the implementation of §§ 13-25-11 to 13-25-13, inclusive.

13-25-14. Extension of time to apply. If the school board or other governing agency finds it is difficult to comply with the requirements due to financial circumstances, application may be made to the State Fire Marshal for an extension of time in which to comply with this chapter. The request shall be made in writing, stating the reasons for such time extension. The State Fire Marshal shall investigate the request and shall grant a time extension if there is deemed a legitimate reason for delay.

13-25-15. International codes as basis for new construction. For new construction after July 1, 2006, any rules adopted by the department shall use as a basis for their development the International Building Code, the International Fire Code, and the International Mechanical Code, 2003 editions, and referenced standards which may be modified, amended, or deleted if the secretary finds that strict application of the code is impractical and, furthermore, that the modification is in conformity with the intent and purpose of the code or standards.

13-25-16. Inspection by certain municipalities. Nothing in this chapter shall preclude the director from entering into an agreement with a first class municipality to conduct an inspection so long as he is satisfied that the inspection will meet the standards of the division.

13-25-17. Authority of state fire marshal. The state fire marshal may summarily abate any condition that presents a fire hazard as defined in subdivision 34-29B-1(7) and which constitutes an immediate threat to life safety.

SCHOOL CONSTRUCTION RULES

61:15:02:01. Responsibility of governing boards. The governing board of a school covered by SDCL chapter [13-25](#) shall inform the Department of Public Safety of its intention to alter or remodel existing structures or to build new facilities to be used for school purposes.

61:15:02:02. Approval of proposed construction required. The governing body shall advertise no plans and specifications for proposed construction or alteration of school buildings until the plans and specifications have been reviewed by a representative of the Department of Public Safety and approved in writing. Drawings shall be drawn to scale and shall clearly show plot plan sections, elevations, structural details, floor plan, electrical, mechanical, and any other details the department requires.

61:15:02:03. Requirements for plans and specifications -- New construction. All plans and specifications for new construction shall be in accordance with the **International Building Code**, 2003 edition; the **International Fire Code**, 2003 edition; the **International Mechanical Code**, 2003 edition, and referenced standards, except as modified, amended, or deleted in this chapter. The cover sheet shall clearly state the occupancy group, division, and building type. Failure to designate these is cause for rejection of the plans.

61:15:02:04. Requirements for plans and specifications -- Remodeling -- Unsafe conditions. Any addition, alteration, or repair may be made to any building or structure without requiring the existing building or structure to comply with all the requirements of the **International Building Code**, 2003 edition, if the addition, alteration, or repair conforms to that required for a new building or structure.

Any addition or alteration that will cause the existing building or structure to become unsafe may not be made to an existing building or structure. An unsafe condition is considered to have been created if the addition or alteration causes the building or structure to become structurally unsafe or overloaded, will not provide sufficient egress or will obstruct existing exits, will create a fire hazard, will reduce required fire resistance, or will otherwise create conditions dangerous to human life.

61:15:02:05. Deletions from the International Building Code. Sections 101.4 to 101.4.7, inclusive, and 103 to 105.7, inclusive, are deleted from the **International Building Code**, 2003 edition.

61:15:02:06. Deletions from the International Fire Code. Sections 103 to 105.7.12, inclusive, sections 903.2.5, 903.2.7, and 906.1 number 1 are deleted from the **International Fire Code**, 2003 edition.

61:15:02:07. Amendments to the International Fire Code. Amendments to the **International Fire Code**, 2003 edition, are as follows:

- (1) Where the International Fire Code references NFPA 10, "Standard for Portable Fire Extinguishers," the 2002 edition is the standard to be used;
- (2) Where the International Fire Code references NFPA 72, "National Fire Alarm Code," the 2002 edition is the standard to be used;
- (3) Where the International Fire Code references, NFPA 407, "Aircraft Fuel Servicing," the 2001 edition is the standard to be used;
- (4) Where the International Fire Code references NFPA 52, "Compressed Natural Gas (CNG) Vehicular Fuel Systems," the 2002 edition is the standard to be used;
- (5) Where the International Fire Code references NFPA 86, "Ovens and Furnaces," the 2003 edition is the standard to be used;
- (6) Where the International Fire Code references NFPA 50, "Bulk Oxygen Systems at Consumer Sites," the 2004 edition is the standard to be used;
- (7) Where the International Fire Code references NFPA 11, "Low Expansion Foam," the 2002 edition is the standard to be used;
- (8) Where the International Fire Code references NFPA 15, "Water Spray Fixed Systems," the 2001 edition is the standard to be used;
- (9) Where the International Fire Code references NFPA 704, "Identification of the Fire Hazards of Materials," the 2001 edition is the standard to be used;
- (10) Where the International Fire Code references, NFPA 385, "Tank Vehicles for Flammable and Combustible Liquids," the 2000 edition is the standard to be used; and
- (11) Where the International Fire Code references NFPA 58, "Storage and Handling of Liquefied Petroleum Gases," the 2004 edition is the standard to be used.

61:15:02:08. Amendments to the International Building Code. Amendments to the **International Building Code**, 2003 edition, are as follows:

- (1) Where the International Building Code references NFPA 13, "Installation of Sprinkler Systems," the 2002 edition is the standard to be used;
- (2) Where the International Building Code references NFPA 14, "Standard for the Installation of Standpipe, Private Hydrant, and Hose Systems," the 2003 edition is the standard to be used;
- (3) Where the International Building Code references NFPA 13R, "Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height," the 2002 edition is the standard to be used.

AUTOMATIC SCHOOL FIRE ALARM TIE-IN RULES

61:15:04:01. Requirements for signaling devices for public school attendance centers. Public school attendance centers with fire alarm systems shall be monitored by a central, proprietary, or remote station service or a local alarm which gives audible and visual signals at a constantly attended location.

61:15:04:02. Central dispatch station defined. Repealed.

61:15:04:03. Alternative requirements for signaling devices for public school attendance centers. To comply with SDCL [13-25-11](#) to [13-25-13](#), inclusive, public school attendance centers may either install signaling devices that comply with § 61:15:04:01 or automatic telephone dialing devices directly connected to the local fire department dispatch system. Automatic telephone dialing devices used to transmit an emergency alarm may not be connected to any fire department telephone number unless the connection is approved by the fire chief.

61:15:04:04. Automatic telephone dialing device defined. An automatic telephone dialing device is a device located at the protected premise to which initiation devices are connected. When an initiation device activates the dialer, the dialer must seize a telephone line, dial a preselected number, and transmit a voice message over the telephone line.

FIRE SAFETY REQUIREMENT RULES FOR EXISTING SCHOOLS

61:15:07:01. Definition of authority having jurisdiction. The authority having jurisdiction is the state or local person or office enforcing the provisions of the **International Building Code, International Fire Code, International Mechanical Code**, 2003 editions, and this chapter.

61:15:07:02. Applicability. Any structure or structures coming within the scope of SDCL chapter [13-25](#) must conform to the provisions of this chapter.

61:15:07:03. Portable fire extinguishers. Portable fire extinguishers must be provided in each school occupancy and must be inspected and maintained in accordance with NFPA 10, "Portable Fire Extinguishers," 2002 edition. Vaporizing liquid extinguishers containing carbon tetrachloride or chlorobromomethane may not be installed or used in any location for fire protection. Soda-acid, foam, loaded stream, antifreeze, and water fire extinguishers of the inverting type may not be recharged or placed in service for fire protection. Portable extinguishers must be installed near food-processing equipment.

61:15:07:04. Automatic sprinkler system requirements. An automatic sprinkler system must be installed in basements of school occupancies when the total area of unseparated uses exceeds 1,500 square feet in floor area. All valves controlling the water supply for automatic sprinkler systems must be electrically supervised when the number of sprinkler heads exceeds 100. All automatic sprinkler systems must have a water-flow switch which activates the building's fire alarm. For uses to be considered as separated, the separation may not be less than as required for a one-hour occupancy separation.

61:15:07:05. Ventilating hood and duct systems. A ventilating hood and duct system must be provided for commercial food heat-processing equipment that produces grease-laden vapors. For each canopy hood the inside edge must overhang or extend a horizontal distance of not less than six inches beyond the edge of the cooking surface on all open sides, and the vertical distance between the lip of the hood and the cooking surface may not exceed four feet.

61:15:07:06. Fire-extinguishing equipment for protection of kitchen grease hoods and ducts. Fire-suppression systems must be provided for the protection of commercial food heat-processing equipment. The requirement for protection does not include steam kettles and steam tables or equipment which as used does not create grease-laden vapors. The fire-suppression system used to protect ventilating hoods and ducts and cooking appliances must be installed to include cooking surfaces, deep fat fryers, griddles, upright broilers, charbroilers, range tops and grills. Protection must also be provided for the enclosed plenum space within the hood above the filters and the exhaust ducts serving the hood. That portion of the fire-suppression system required for protection of the plenum space within the hood beyond the filter and within the exhaust duct serving the hood may be omitted if grease extractors are installed. Automatic fire-extinguishing systems must be interconnected to the fuel or electrical current supply so that the fuel or current is automatically shut off to all equipment under the hood if the system is actuated. Shutoffs, valves, or switches must be of the type that require manual operation to reset. In addition, carbon dioxide systems must be similarly interconnected to shut off the ventilation fan. A readily accessible, manually activated device must be provided for dry chemical, carbon dioxide, and wet chemical systems at a location approved by the local fire official or a representative of the Department of Public Safety.

61:15:07:07. Operation and maintenance of hood and duct suppression systems. The ventilation system in connection with hoods must be operated at the designed level, and grease filters must be in place when the equipment under a hood is used. If grease extractors are installed, they must be operated when the appliances are used. Extinguishing systems must be serviced at least every six months or after activation of the system. Inspection must be by a trained person who has undergone the instructions necessary to reliably perform maintenance and has the manufacturer's service manual, and an inspection tag must be attached to the system. Fusible links and automatic sprinkler heads must be replaced at least annually, and other protection devices must be serviced or replaced in accordance with the manufacturer's instructions. Frangible bulb sprinkler heads need not be replaced annually. Hoods, grease-removal devices, fans, ducts, and other appurtenances must be cleaned to eliminate grease accumulation.

61:15:07:08. Fire-resistive construction maintenance. Fire-resistive construction required by the building code in effect at the time of the building's construction or by this chapter, including occupancy separations, area separation walls, shaft enclosures must be maintained as specified in the building code or this chapter. This required fire-resistive construction must be repaired, restored, or replaced when damaged, altered, breached, penetrated, removed, or improperly installed.

61:15:07:09. Maintenance of exits and emergency escapes. The number of required exits for a building or each level of a building must meet the requirements of Sections 1004.1, 1004.1.1, 1004.1.2, and section 1018 of the **International Building Code**, 2003 edition. Any building or structure that is not provided with adequate egress is unsafe and may be subjected to the abatement procedures specified in SDCL [13-25-9](#). Exits conforming to the requirements of the building code under which they were constructed may be considered as complying exits if, in the opinion of the authority having jurisdiction, they do not constitute a distinct hazard to life. The fire-resistive rating of walls, ceilings, and openings that are part of an exit must meet the minimum requirements of this chapter. No obstruction, including storage, may be placed in the required width of an exit. No exit may be obstructed in any manner and must remain free of any material or matter whose presence would make the exit hazardous.

61:15:07:10. Exit doors. Exit doors must be of the pivoted or side-hinged swinging type and must swing in the direction of exit travel when serving any hazardous area or when serving an occupant load of 50 or more. The door latch must release when subjected to a 15-pound force, and the door must be set in motion when subjected to a 30-pound force. The door must swing to full-open position when subjected to a 15-pound force. Forces must be applied to the latch side. Exit doors must be openable from the inside without the use of a key or any special knowledge or effort. Exit doors may not be locked, chained, bolted, barred, latched, or otherwise rendered unusable when the building is occupied. When the occupant load of a building drops to five or less, exit doors may be provided with a night latch, dead bolt, or security chain if such devices are openable from the inside without the use of a key or special tool.

61:15:07:11. Existing corridor construction. Any existing corridor of a building or structure covered by this chapter may be considered as a complying corridor if, in the opinion of the fire official, a distinct hazard to life is not found to exist. If a distinct hazard to life is found to exist, any corridor serving as an exit for an occupant load for 30 or more shall have walls and ceilings of not less than one-hour fire-resistive construction. Any existing wall surfaced with wood lath and plaster in good condition of 1/2 inch gypsum wall board or any opening with fixed wired glass set in steel frames is permitted for a corridor wall and ceiling if approved. Each door opening into such a corridor shall be protected with 20-minute fire assemblies or solid wood doors not less than 1 3/4 inches thick. Each door shall be self-closing or automatic closing by smoke detection. Each transom and opening other than a door from a corridor to a room shall comply with section 1016 of the International Building Code, 2003 edition, or shall be covered with a minimum of 1/2 inch gypsum wall board or equivalent material on the room side. Any existing corridor wall, ceiling, and opening protection not in compliance with the requirements of this section may be continued if the building is protected with an automatic sprinkler system throughout.

61:15:07:12. Fire escapes. An existing fire escape may be used as one of the exits required by § 61:15:07:09. The location and design must comply with the following:

- (1) Access from a corridor may be through an intervening room if the travel distance does not exceed 150 feet from any area of the building to the egress opening and a direct, obvious, and unobstructed path of travel is provided. Such paths of exit travel may not pass through kitchens, storerooms, restrooms, closets, laboratories, industrial shops, or other similar places;
- (2) In buildings over two stories high, all openings within 10 feet of the stair must be protected by 3/4-hour fire assemblies. Adjacent enclosure walls located within a recess or vestibule must be of at least one-hour fire-resistive construction;
- (3) Egress from the building must be by a clear opening at least 20 inches wide, 24 inches high, and 5.7 square feet in area. The bottom of the opening may not be more than 44 inches above the floor;
- (4) Fire escape stairways and balconies must support the dead load plus a live load of not less than 100 pounds per square foot and must be provided with a top and intermediate handrail on each side. The pitch of the stairway may not exceed 60 degrees with a minimum width of 18 inches. Treads may not be less than 4 inches wide and the rise between treads may not exceed 10 inches. All stair and balcony railings must support a horizontal force of not less than 50 pounds per lineal foot of railing;
- (5) Balconies may not be less than 44 inches wide and may have no floor openings other than the stairway opening greater than 5/8 inch wide. Stairway openings in such balconies may not be less than 22 inches by 44 inches. The balustrade of each balcony may not be less than 36 inches high and may not have more than 9 inches between balusters;
- (6) Fire escapes must extend to the roof or provide a gooseneck ladder between the top floor landing and the roof when serving buildings four or more stories high that have roofs with less than 4:12 slope. Fire escape ladders must be designed and connected to the building to withstand a horizontal force of 100 pounds per lineal foot; each rung must support a concentrated load of 500 pounds placed anywhere on the rung. All ladders must be at least 15 inches wide, located within 12 inches of the building, and must be placed flat against the face of the building. Ladder rungs must be 3/4 inch in diameter and must be located 12 inches on center. Openings for roof access ladders through cornices and similar projections must have minimum dimensions of 30 inches by 33 inches;
- (7) The lowest balcony may not be more than 18 feet from the ground. Fire escapes must extend to the ground or be provided with counterbalanced stairs reaching to the ground;
- (8) Fire escapes must not take the place of stairways required by the codes under which the building was constructed. Fire escapes must be kept clear and unobstructed at all times and must be maintained in good working order. All doors or windows providing access to a fire escape must be provided with fire escape signs.

61:15:07:13. Enclosure of vertical shafts. Interior vertical shafts, including stairways, elevator hoistways, service shafts, and utility shafts, must be enclosed by a minimum of one-hour fire-resistive construction. All openings into such shafts must be protected with one-hour fire assemblies which are self-closing or automatic-closing by smoke detection. All other openings must be protected from fire in a manner approved by the authority having jurisdiction. An enclosure is not required for openings serving only one adjacent floor. Vertical openings need not be protected if the building is protected by an automatic sprinkler system throughout.

61:15:07:14. Exit signs. If two or more exits from a story are required by the **International Building Code**, 2003 edition, exit signs must be installed at stair enclosure doors, horizontal exits, and other required exits from the story. If two or more exits are required from a room or area, exit signs must be installed at the exits from the room or area and where otherwise necessary to clearly indicate the direction of egress. If the exitway is not easily identified from any part of a building, regardless of the occupant load, the authority having jurisdiction may require additional signs, lights, or other markings to assure that the exitway meets the intent of this section.

61:15:07:15. Exit sign illumination. Exit signs required to be illuminated by the **International Building Code**, 2003 edition, must be maintained in an operable condition.

61:15:07:16. Exit illumination. Exit illumination must be provided and maintained in accordance with the **International Building Code**, 2003 edition. Exits must be illuminated as required by the **International Building Code** if the building or structure is occupied. Equipment providing emergency power for exit illumination and exit signs must be maintained in an operable condition.

61:15:07:17. Control of overcrowding and egress obstruction. The school governing body is responsible for control of overcrowding and admittance of persons beyond the capacity of a place of assembly. Upon finding overcrowded conditions or obstructions in aisles, passageways, or other means of egress which constitute a serious menace to life, the authority having jurisdiction may, as a last resort, stop the performance, presentation, spectacle, or entertainment until the conditions or obstructions are corrected.

61:15:07:18. Flame retardant treatments. In buildings or rooms used for assembly purposes, stage curtains, valances, leg drops, Christmas trees, and any decorative material exceeding 10 percent of the wall area that would tend to increase the fire and panic hazard must be made from material which is not flammable or must be treated by means of flame-retardant solution or an equivalent process approved by the authority having jurisdiction. Treatments used to accomplish flame retardation must be renewed as often as necessary to maintain the flame-retardant effect. Exit doors, exit lights, fire alarm stations, hose cabinets, and fire-extinguisher locations may not be concealed or obstructed by decorative material.

61:15:07:19. Fire alarm requirements. Educational occupancies having an occupant load of 50 or more must be provided with a manual and automatic fire alarm system. Manual fire alarm boxes must be located in accordance with NFPA 72, "National Fire Alarm Code," 2002 edition. Fire alarm systems must be maintained and tested in accordance with the National Fire Alarm Code. Assembly portions of educational occupancies may have alarms as required for the educational occupancy.

61:15:07:20. Laboratories and science rooms. Each laboratory and science work area in which hazardous chemicals are used or stored must conform to the following:

- (1) Each laboratory or science room utilizing hazardous chemicals must be separated from each other and from the rest of the building by a minimum of a one-hour fire-resistive separation. Existing construction may be considered as complying, if in the opinion of the fire official, a distinct hazard to life is not found to exist. No separation is required in fully sprinklered buildings;
- (2) Each laboratory must contain at least one portable fire extinguisher with a minimum rating of 2A-10BC per 1500 square feet of lab area;
- (3) Flammable and combustible liquids and hazardous chemicals must be stored in approved metal storage cabinets or in a storage room constructed of one-hour fire-resistive construction;
- (4) Each laboratory and chemical storage room must be provided with mechanical exhaust;
- (5) A manual shutoff valve must be provided for LP-gas and other bulk compressed gas systems. A valve must be provided at the point of supply and at each point of use. A valve that is located near the instructors workstation or an emergency valve is acceptable for the required valve located at the point of use; and
- (6) The maximum water capacity of individual LP-gas cylinders used for experimentation in educational occupancies shall be 50 lbs. Cylinders not in use may not be stored within the building.

61:15:07:21. Storage, use, and handling of miscellaneous combustibles. The storage, use, and handling of miscellaneous combustibles must be in accordance with the following:

- (1) Storage of combustible materials in buildings or rooms must be orderly and maintained at least two feet from the ceiling and at least 18 inches below sprinkler head deflectors;
- (2) Combustible materials may not be stored in exits or exit enclosures;
- (3) Combustible material may not be stored in boiler rooms, mechanical rooms, or electrical equipment rooms unless the combustible material is stored at least ten feet from the boiler or the mechanical or electrical equipment;
- (4) Fueled equipment, including motorcycles, lawn-care equipment, and portable cooking equipment, may not be stored, operated, or repaired within a building except if operated in accordance with the equipment's listing, if permitted by other provisions of code, or in buildings or rooms constructed for such use in accordance with Section 313 of the **International Fire Code**, 2003 edition. The authority having jurisdiction may require the immediate removal of such equipment from any location when the presence of such equipment is determined to be hazardous;
- (5) Combustible decorative material, including cotton batting, paper, foam plastics, cloth, dried vegetation, moss, straw, hay, vines, split bamboo, leaves, and similar material, must be flame resistant by procedures approved by the authority having jurisdiction. The authority having jurisdiction may except materials and individual decorative items from the requirements of this subdivision based on size and separation from other combustible materials. The aggregate area of any materials or decorative items may not exceed ten percent of the wall area.

61:15:07:22. Interior finish requirements. Interior wall and ceiling finish must conform to Section 803.1, Table 803.5, Chapter 8 of the **International Building Code**, 2003 edition. Exposed floor surfaces, including coverings which are applied over a previously finished floor, must be a Class 2 material in required exits and passageways and in corridors providing exit access. If an automatic sprinkler system is installed, materials need not be classified. Class 2 materials are any materials having a critical radiant flux of 0.22 watt per square centimeter as determined by NFPA 253, "Test for Critical Flux of Floor Covering Systems Using a Radiant Heat Energy Source," 1990 edition.

61:15:07:23. Heating and cooking appliances. Heating appliances must be installed and maintained in accordance with their listing and the **International Mechanical Code**, 2003 edition. Clearance from combustible material must be maintained as set forth in the building and mechanical codes. Portable unvented fuel-fired heaters may not be used. Domestic and commercial food processing equipment must be installed and maintained in accordance with their listing and the **International Mechanical Code**, 2003 edition.

61:15:07:24. Electrical equipment and wiring. Permanent and temporary use of electrical appliances, fixtures, motors, and wiring must be in accordance with this chapter and the **National Electrical Code**, 2005 edition. This chapter shall be enforced in cooperation with the authority having jurisdiction for the enforcement of the electrical code. If electrical hazards are identified, measures to abate such conditions must be taken. Identified hazardous electrical conditions in permanent wiring or temporary wiring must be corrected in cooperation with the authority enforcing the electrical code. Electrical wiring, devices, appliances, and other equipment which are modified or damaged and constitute an electrical shock or fire hazard may not be used.

61:15:07:25. Use of temporary wiring. Temporary wiring for electrical power and lighting installations is allowed during periods of construction, remodeling, repair, demolition, or similar activities. Temporary wiring is also allowed for not more than 90 days for Christmas decorative lighting, carnivals, and similar purposes and for experimental or developmental.

61:15:07:26. Electrical motors. Electrical motors must be maintained in a manner free from accumulations of oil, dirt, waste, and other debris which will interfere with motor ventilation or create a fire hazard.

61:15:07:27. Extension cords. Extension cords may not be used as a substitute for permanent wiring and must be used in accordance with the following;

- (1) Extension cords are permitted only with portable appliances while such appliances are in immediate use;
- (2) Extension cords must be plugged directly into an electrical receptacle, power tap, or multiplug adapter and may, except for listed multiplug extension cords, serve only one portable appliance;
- (3) The ampacity of an extension cord may not be less than the rated capacity of the portable appliance supplied by the cord;
- (4) Extension cords must be maintained in good condition without splices, deterioration, or damage and must be grounded when serving grounded portable appliances;
- (5) Extension cords and flexible cords may not be affixed to structures; extend through walls, ceilings, or floors or under doors or floor coverings; or be subject to environmental or physical damage.

61:15:07:28. Access to switchboards and panel boards. Workspace around switchboards and panel boards must be provided and maintained as required by the **National Electrical Code**, 2005 edition. Such space may not be used for storage. A clear and unobstructed means of access with a minimum width of 36 inches and a minimum height of 78 inches must be maintained from the operating face of the switchboard or panel board to an aisle or corridor. The disconnecting means for each service, feeder, or branch circuit originating on a switchboard or panel board must be legibly and durably marked to indicate its purpose unless the purpose is clearly evident.

61:15:07:29. Flammable and combustible liquids and liquefied petroleum gas. The storage, use, dispensing, mixing, and handling of flammable and combustible liquids and liquefied petroleum gas must be in accordance with Chapters 34 and 38 of the **International Fire Code**, 2003 edition. Flammable and combustible liquids are allowed to be used for maintenance purposes, operation of equipment, demonstration, or laboratory work when stored in cabinets which comply with the **International Fire Code**, 2003 edition. Quantities not exceeding 10 gallons may be stored outside a cabinet when in storage containers located in a location approved by the authority having jurisdiction.

61:15:07:30. Compressed gases. Cylinders containing flammable and nonflammable gases must be stored, used, and handled in accordance with the **International Fire Code**, Chapter 30, 2003 edition. Cylinders, pressure vessels, and groups of containers must be marked with the name of the gas contained and if in service or in storage must be adequately secured to prevent cylinders from falling or being knocked over.

61:15:07:31. Protection of gas appurtenances. Gas meters, regulators, piping, and liquefied petroleum gas tanks located in an alley, driveway, parking lot, or other area where vehicular damage may occur must be protected by barriers.

61:15:07:32. Special provisions for kindergarten, first, and second grades. Rooms used for kindergarten, first, or second grade pupils may not be located above or below the first story, except in basements or stories that have floor levels located within four feet, measured vertically, from the adjacent ground level at the point of exit, provided the basement or story has exits directly to the exterior at that level. In buildings equipped with an automatic sprinkler system throughout, rooms used for kindergarten, first, and second grade pupils may be located on the second story if there are at least two exits directly to the exterior for the exclusive use of the occupants. The authority having jurisdiction may modify the requirements of this section if exigent circumstances are encountered in a specific case.

Authorized Punishments:

22-6-1. Felony classes and penalties--Restitution--Habitual criminal sentences. Except as otherwise provided by law, felonies are divided into the following nine classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:

- (1) Class A felony: death or life imprisonment in the state penitentiary. A lesser sentence than death or life imprisonment may not be given for a Class A felony. In addition, a fine of fifty thousand dollars may be imposed;
- (2) Class B felony: life imprisonment in the state penitentiary. A lesser sentence may not be given for a Class B felony. In addition, a fine of fifty thousand dollars may be imposed;
- (3) Class C felony: life imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;
- (4) Class 1 felony: fifty years imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;
- (5) Class 2 felony: twenty-five years imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;
- (6) Class 3 felony: fifteen years imprisonment in the state penitentiary. In addition, a fine of thirty thousand dollars may be imposed;
- (7) Class 4 felony: ten years imprisonment in the state penitentiary. In addition, a fine of twenty thousand dollars may be imposed;
- (8) Class 5 felony: five years imprisonment in the state penitentiary. In addition, a fine of ten thousand dollars may be imposed; and
- (9) Class 6 felony: two years imprisonment in the state penitentiary or a fine of four thousand dollars, or both.

The court, in imposing sentence on a defendant who has been found guilty of a felony, shall order in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.

Nothing in this section limits increased sentences for habitual criminals under §§ 22-7-7, 22-7-8, and 22-7-8.1.

22-6-2. Misdemeanor classes and penalties--Restitution--Misdemeanor when no penalty imposed.

Misdemeanors are divided into two classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:

- (1) Class 1 misdemeanor: one year imprisonment in a county jail or two thousand dollars fine, or both;
- (2) Class 2 misdemeanor: thirty days imprisonment in a county jail or five hundred dollars fine, or both.

The court, in imposing sentence on a defendant who has been found guilty of a misdemeanor, shall order, in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.

Except in Titles 1 to 20, inclusive, 22, 25 to 28, inclusive, 32 to 36, inclusive, 40 to 42, inclusive, 47 to 54, inclusive, and 58 to 62, inclusive, if the performance of an act is prohibited by a statute, and no penalty for the violation of such statute is imposed by a statute, the doing of such act is a Class 2 misdemeanor.

OBSTRUCTION OF THE ADMINISTRATION OF GOVERNMENT:

22-11-6. Obstructing law enforcement officer, firefighter, or emergency management personnel--Misdemeanor. Except as provided in §§ 22-11-4 and 22-11-5, any person who, by using or threatening to use violence, force, or physical interference or obstacle, intentionally obstructs, impairs, or hinders the enforcement of the criminal laws or the preservation of the peace by a law enforcement officer or jailer acting under color of authority, or intentionally obstructs, impairs, or hinders the prevention, control, or abatement of fire by a firefighter acting under color of authority, or intentionally obstructs emergency management personnel acting under color of authority, is guilty of obstructing a law enforcement officer, firefighter, or emergency medical technician. Obstructing a law enforcement officer, jailer, firefighter, or emergency medical technician is a Class 1 misdemeanor.

22-11-6.1. Repealed by SL 2005, ch 120, § 197, eff. July 1, 2006.

22-11-8. Transferred to § 22-40-16 by SL 2005, ch 120, § 200, eff. July 1, 2006.

22-11-9. False reporting to authorities--Misdemeanor. Any person who:

- (1) Except as provided in § 22-11-9.2, knowingly causes a false fire or other emergency alarm to be transmitted to, or within, any fire department, ambulance service, or other government agency which deals with emergencies involving danger to life or property;
- (2) Makes a report or intentionally causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern, knowing that it did not occur; or
- (3) Makes a report or intentionally causes the transmission of a report to law enforcement authorities which furnishes information relating to an offense or other incident within their official concern, knowing that such information is false;

is guilty of false reporting to authorities. False reporting to authorities is a Class 1 misdemeanor.

22-11-9.1. False fire alarm causing serious bodily injury or death--Felony. Any person who intentionally gives any false alarm of fire, by any means, is guilty of a Class 5 felony, if, as a result, any other person dies or sustains serious bodily injury.

ARSON:

22-33-9.1. First degree arson--Felony. Any person who starts a fire or causes an explosion with the intent to destroy any occupied structure of another is guilty of first degree arson. First degree arson is a Class 2 felony.

22-33-9.2. Second degree arson--Felony. Any person who starts a fire or causes an explosion with the intent to:

- (1) Destroy any unoccupied structure of another; or
- (2) Destroy or damage any property, whether his or her own or another's, to collect insurance for such loss; is guilty of second degree arson. Second degree arson is a Class 4 felony.

22-33-9.3. Reckless burning or exploding--Felony. Any person who intentionally starts a fire or causes an explosion, whether on his or her own property or another's, and thereby recklessly:

- (1) Places another person in danger of death or serious bodily injury; or
- (2) Places a building or occupied structure of another in danger of damage or destruction; is guilty of reckless burning or exploding. Reckless burning or exploding is a Class 4 felony.

22-33-9.4 Failure to control or report dangerous fire--Misdemeanor. Any person who knows that a fire is endangering life or a substantial amount of property of another and fails to take reasonable measures to put out or control the fire, if such person can do so without substantial risk to himself or herself, or to give a prompt fire alarm, if:

- (1) Such person knows that he or she is under an official, contractual, or other legal duty to prevent or combat the fire; or
- (2) The fire was started, albeit lawfully, by or with the assent of himself or herself, or on property in his or her custody or control;

is guilty of failure to control or report a dangerous fire. Failure to control or report a dangerous fire is a Class 1 misdemeanor.

22-33-9.5. Occupied structure defined. For the purposes of chapter 22-33, the term, occupied structure, means any structure, vehicle, or place adapted for overnight accommodation of persons, or for carrying on business therein, whether or not a person is actually present. Property is that of another, for the purposes of this section, if anyone other than the actor has a possessory or proprietary interest in the property. If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an occupied structure of another.

22-33-10. Burning within a structure where person is lawfully confined--Felony. Any person who intentionally and without authorization of the person in charge of a place of confinement, sets fire to, burns, or causes to be burned any material, object, or substance within a structure knowing there is lawfully confined therein any person, is guilty of a Class 6 felony.

BOILER LAW

34-29A-1 Definition of terms. Terms as used in this chapter, unless the context otherwise requires, mean:

- (1) "Boiler," a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum, for use externally to itself by the direct application of heat from the combustion of fuels, or from electricity, nuclear or solar energy. The term "boiler" includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves. The term "boiler" includes the apparatus by which heat is generated and all controls and safety devices associated with such apparatus or the closed vessel;
- (2) "Certificate inspection," an inspection, the report of which is used by the chief inspector to decide whether or not a certificate as provided by § 34-29A-39 may be issued. This certificate inspection shall be an internal inspection when required; otherwise, it shall be as complete an inspection as possible;
- (3) "Heating boiler," a steam or vapor boiler operating at pressures not exceeding fifteen psig, or a hot water boiler operating at pressures not exceeding 160 psig or temperatures not exceeding 250 degrees F;
- (4) "High pressure, high temperature water boiler," a water boiler operating at pressures exceeding 160 psig or temperatures exceeding 250 degrees F;
- (5) "Historic power boiler," a standard or nonstandard power boiler, including free-lance and scale models, owned by publicly operated museums, nonprofit organizations and individuals who preserve, maintain, exhibit, and only occasionally operate these boilers on a not-for-profit basis and for the primary purpose of perpetuating the agricultural and pioneer heritage of South Dakota;
- (6) "Hot water supply boiler (water heater)," a boiler of either instantaneous or storage type, furnishing hot water to be used externally to itself;
- (7) "Power boiler," a boiler in which steam or other vapor is generated at a pressure of more than fifteen psig;
- (8) "Secondhand boiler," a boiler for which both location and ownership have changed since initial installation.

34-29A-2. Inspectors within department. There shall be within the Department of Public Safety a chief boiler inspector (referred to hereinafter as the "chief inspector") who shall be selected as provided in § 34-29A-3 and such deputy inspectors as may be required, selected as provided in § 34-29A-4. The chief inspector and the deputy inspectors may be employees of the department or independent contractors hired by the department.

34-29A-3. Qualifications and appointment of chief inspector. At any time that the office of the chief inspector may become vacant, the secretary of public safety shall appoint a person who shall have had at the time of such appointment not less than five years' experience in the construction, installation, inspection, operation, maintenance, or repair of boilers as a mechanical engineer, steam operating engineer, boilermaker, or boiler inspector, and who shall have passed the same kind of examination as that prescribed under § 34-29A-9, to be chief inspector. This examination may be waived by the secretary of public safety for a period of twelve months.

34-29A-4. Qualifications and employment of deputy inspectors. The Department of Public Safety may employ deputy inspectors who shall have had at the time of appointment not less than three years' experience in the construction, installation, inspection, operation, maintenance, or repair of boilers as a mechanical engineer, steam operating engineer, boilermaker, or boiler inspector, and who shall have passed the examination provided for in § 34-29A-9. This examination may be waived by the secretary of public safety for a period of twelve months.

34-29A-5. Repealed by SL 1982, ch 18, § 37.

34-29A-6. Commissions issued to special inspectors employed by insurance companies-- Examination or previous certification required. In addition to the deputy boiler inspectors authorized by § 34-29A-4, the Department of Public Safety shall, upon the request of any company licensed to insure and insuring in this state boilers, issue to any inspectors of said company commissions as special inspectors, provided that each inspector before receiving his commission shall satisfactorily pass the examination provided for by § 34-29A-9, or, in lieu of the examination, shall hold a commission or a certificate of competency as an inspector of boilers for a state that has a standard of examination substantially equal to that of the State of South Dakota or a commission as an inspector of boilers issued by the National Board of Boiler and Pressure Vessel Inspectors. Each special inspector commission issued by the department shall, unless revoked, remain effective for a period of three years. The department shall issue a new commission as special inspector upon the request of companies specified in this section. Special inspectors are not required to pass the examination provided for by § 34-29A-9 more than once.

34-29A-7. Insured boilers inspected by special inspectors--Exemption from state fees except boiler annual operation certificate. Special inspectors issued commissions pursuant to § 34-29A-6 shall inspect all boilers insured by their respective companies and, if so inspected, the owners and users of the boilers are exempt from the payment to the state of the inspection fees provided for in §§ 34-29A-35.1 to 34-29A-37, inclusive, except for the boiler annual operation certificate fee which shall be paid by the insurer of all qualified boilers.

34-29A-8. Special inspectors not paid by state--Commission conditioned on continuing employment. Special inspectors issued commissions pursuant to § 34-29A-6 shall receive no salary from, nor shall any of their expenses be paid by, the state, and the continuance of a special inspector's commission shall be conditioned upon his continuing in the employ of the boiler insurance company duly authorized as aforesaid and upon his maintenance of the standards imposed by this chapter.

34-29A-9. Examinations for inspectors--Scope--Second examination on appeal--Records available to applicant and employer. Examination for chief, deputy, or special inspectors shall be in writing and shall be under the direction of the Department of Public Safety. Such examination shall be confined to questions the answers to which will aid in determining the fitness and competency of the applicant for the intended service, and may be those prepared by the National Board of Boiler and Pressure Vessel Inspectors. In case an applicant for an inspector's commission fails to pass the examination, he may appeal to the Department of Public Safety for another examination which shall be given within ninety days. The record of an applicant's examination shall be accessible to the applicant and his employer.

34-29A-10. Replacement of lost or destroyed commission. If a commission is lost or destroyed, a new commission shall be issued in its place without another examination.

34-29A-11. Hearing on qualifications of special inspector--Revocation of commission. If the chief inspector has reason to believe that a special inspector is no longer qualified to hold his commission, the Department of Public Safety shall, upon not less than ten days' written notice to the inspector and his employer, hold a hearing at which such inspector and his employer shall have an opportunity to be heard. If, as a result of such hearing, the Department of Public Safety shall find that such inspector is no longer qualified to hold his commission, the Department of Public Safety shall thereupon revoke such commission forthwith.

34-29A-12. Suspension of special inspector's commission--Grounds--Notice--Appeal. A special inspector's commission may be suspended by the Department of Public Safety after due investigation and recommendation by the chief inspector, for the incompetence or untrustworthiness of the holder thereof or for willful falsification of any matter or statement contained in his application or in a report of any inspection made by him. Written notice of any such suspension shall be given by the Department of Public Safety within not more than ten days thereof to the inspector and his employer. A person whose commission has been suspended shall be entitled to an appeal to the secretary of public safety as provided in § 34-29A-48 and to be present in person or to be represented by counsel at the hearing of the appeal.

34-29A-13. Reinstatement of suspended commission. A person whose commission has been suspended shall be entitled to apply, after ninety days from the date of suspension, for reinstatement of such commission.

34-29A-14. Boilers exempt from application of chapter. This chapter does not apply to the following boilers:

- (1) Boilers under federal control;
- (2) Boilers located on farms if the farm is not regularly open to the general public and the boiler is used solely for agricultural or horticultural purposes;
- (3) Heating boilers which are located in private residences or in apartment houses of less than six family units;
- (4) Hot water supply boilers equipped with ASME-National Board approved safety relief valves which are directly fired with combustible fuel, electricity, or solar energy when none of the following limitations is exceeded:
 - (a) Heat input of two hundred thousand BTU per hour;
 - (b) Water temperature of two hundred ten degrees F;
 - (c) Nominal water capacity of one hundred twenty gallons;
- (5) Boilers located in a refinery;
- (6) Boilers used as part of an electrical generating plant;
- (7) Historic power boilers as defined by § 34-29A-1. However, each boiler shall comply with rules promulgated under the provisions of § 34-29A-14.1.

34-29A-14.1. Rules and regulations for inspection of historic power boilers. The Department of Public Safety shall promulgate rules, pursuant to chapter 1-26, to provide for the inspection of those historic power boilers otherwise exempt from the provisions of this chapter by § 34-29A-14. The rules shall provide for the inspection of such boilers and for a check of the boiler's safety devices. The rules shall also establish an inspection fee for a historic power boiler inspection. The rules may provide for reporting requirements, inspection reports, repair standards, notification of repair and other administrative procedures necessary to implement this section. The operation of a historic power boiler without complying with the rules promulgated pursuant to this section, by the owner, user or operator of the boiler is a Class 2 misdemeanor. Each day of operation in violation of this section is a separate offense.

34-29A-14.2. Inspectors of historic power boilers. The Department of Public Safety may appoint inspectors to assist in the inspection of historic power boilers as provided by § 34-29A-14.1. The department shall promulgate rules, pursuant to chapter 1-26, to establish the qualifications and to provide for the examination of these appointed inspectors.

34-29A-15. Repealed by SL 1982, ch 18, § 44.

34-29A-16. Program of boiler inspection established by department--Rules. The Department of Public Safety shall establish a program of boiler inspection for safety and uniformity in the use of boilers. The secretary of public safety may adopt reasonable and necessary rules to protect the health or safety of persons from boiler explosions and like emergencies. Such rules shall be in conformity with the standards set forth by the American Society of Mechanical Engineers (ASME) "ASME Boiler and Pressure Vessel Code" and the National Board of Boiler and Pressure Vessel Inspectors "Inspection Code." Such rules may be adopted in the following areas:

- (1) Public initiation procedure;
- (2) Boiler manufacturers' and boiler owners' reporting requirements;
- (3) Notification requirements for operation and removal;
- (4) Controls and safety devices;
- (5) Inspection and reports;
- (6) Repair standards and notification of repair;
- (7) Boiler placement.

The rules shall be promulgated in accordance with chapter 1-26.

34-29A-18 to 34-29A-21. Repealed by SL 1982, ch 18, §§ 46 to 49.

34-29A-22. Maximum allowable pressure of boilers--Computation. The maximum allowable pressure of a boiler carrying the ASME code symbol shall be determined by the applicable sections of the code under which it was constructed and stamped.

The maximum allowable pressure of a boiler which does not carry the ASME code symbol shall be computed by formula stated in rules.

34-29A-23. Reuse of existing boilers. This chapter shall not be construed as in any way preventing the use, sale, or reinstallation of a boiler referred to in § 34-29A-22 provided it has been made to conform to the rules and regulations of the Department of Public Safety governing existing installations and provided, further, it has not been found upon inspection to be in an unsafe condition.

34-29A-24. New boilers to conform to rules--Special installation and operation certificate. No boiler which does not conform to the rules and regulations of the Department of Public Safety governing new construction and installation may be installed and operated in this state after June 30, 1974, unless the boiler is of special design or construction, and is not inconsistent with the spirit and safety objectives of such rules and regulations, in which case a special installation and operation certificate may at its discretion be granted by the Department of Public Safety.

34-29A-25. Certificate required to operate boiler--Unauthorized operation as misdemeanor-- Each day as separate offense. No person, firm, partnership, limited liability company, or corporation may operate in this state a boiler without a valid operation certificate. The operation of a boiler without the operation certificate, or at a pressure exceeding that specified in the operation certificate, by the owner, user, or operator of the boiler is a Class 1 misdemeanor. Each day of operation in violation of this section is a separate offense.

34-29A-26. Inspections required for operating boilers--Frequency of inspection. Each boiler used or proposed to be used within this state, except boilers exempt under § 34-29A-14, shall be thoroughly inspected as to their construction, installation and condition as follows:

- (1) Power boilers and high pressure, high temperature water boilers shall receive a certificate inspection annually which shall be an internal inspection where construction permits, otherwise it shall be as complete an inspection as possible. Such boilers shall also be externally inspected annually while under pressure;
- (2) Low pressure steam or vapor heating boilers shall receive a certificate inspection biennially with an internal inspection every four years where construction will permit;
- (3) Hot water heating and hot water supply boilers shall receive a certification inspection biennially with an internal inspection at the discretion of the inspector;
- (4) Boilers and pressure vessels which are a part of a nuclear installation shall be inspected and reported in such form and with such appropriate information as the Department of Public Safety shall designate.

A grace period of two months beyond the periods specified in subdivisions (1), (2), and (3) of this section may elapse between certificate inspections. The chief inspector may, at his discretion, permit longer periods between certificate inspections.

34-29A-27. Inspection of new boilers during construction--Construction outside state for use within state. All boilers, other than cast iron sectional boilers, installed in this state after June 30, 1974, shall be inspected during construction as required by the applicable rules and regulations of the Department of Public Safety by an inspector authorized to inspect boilers in this state, or, if constructed outside of the state, by an inspector holding a commission issued by the National Board of Boiler and Pressure Vessel Inspectors.

34-29A-28. Persons authorized to make inspections. The inspections required in this chapter shall be made by the chief inspector, by a deputy inspector, or by a special inspector provided for in this chapter.

34-29A-29. State inspectors' access to premises for inspection during construction. The Department of Public Safety, the chief inspector, or any deputy inspector shall have free access, during reasonable hours, to any premises in the state where a boiler is being constructed for use in, or is being installed in, this state for the purpose of ascertaining whether such boiler is being constructed and installed in accordance with the provisions of this chapter.

34-29A-30, 34-29A-31. Repealed by SL 1982, ch 18, §§ 55, 56.

34-29A-32. Variations in inspection requirements for operating equipment. Based upon documentation of actual service conditions by the owner or user of the operating equipment, the chief inspector in his discretion, may permit variations in the inspection requirements for operating equipment.

34-29A-33. Hydrostatic tests of operating equipment. If, at the discretion of the inspector, a hydrostatic test of operating equipment shall be deemed necessary, it shall be made by the owner or user of the boiler.

34-29A-34. Secretary or designee to issue, suspend or revoke certificates. The secretary of public safety, or his designee, shall issue, or suspend or revoke for cause, operation certificates as provided for in §§ 34-29A-39 to 34-29A-43, inclusive.

34-29A-35. Repealed by SL 1978, ch 257, § 2.

34-29A-35.1. Inspection fees. The owner or user of a boiler required by this chapter to be inspected by the chief inspector, or a deputy inspector, shall pay directly to the State of South Dakota through the Office of the State Fire Marshal, upon completion of the inspection, fees in accordance with the following schedule:

(1) Power boilers and high pressure, high temperature water boilers:

Certificate Inspections

Boilers of 50 sq. ft. of heating surface or less \$30.00

Boilers over 50 sq. ft. of heating surface and less than 4,000 sq. ft. of heating surface 40.00

Boilers of 4,000 sq. ft. of heating surface or more and less than 10,000 sq. ft of heating surface 50.00

Boilers of 10,000 sq. ft. of heating surface or more 60.00

External Inspections

Boilers of 50 sq. ft. of heating surface or less 15.00

Boilers over 50 sq. ft. of heating surface 25.00

(2) Heating boilers:

Certificate Inspections

Heating boilers without a manhole 20.00

Heating boilers with a manhole 30.00

Hot water supply boilers 10.00

(3) All owners, users, or insurers of qualified boilers shall pay an annual operation certificate fee if the boiler is inspected by a state inspector or a special inspector.

Operation certificate 20.00

In addition to the operation certificate fee required in this section, and, except as provided for in §§ 34-29A-36 and 34-29A-37, no owner, user, or insurer of a boiler which is subject to inspection by the Department of Public Safety may be required to pay more than one certificate inspection fee and one external inspection fee, per boiler, in a twelve-month period.

34-29A-36. Additional fee for reinspection trip. If it is necessary for the chief inspector or his deputy inspector to make a reinspection trip to witness the application of a hydrostatic test due to deficiencies noted in a previous inspection, an additional fee based on the scale of fees applicable to a certificate inspection of the boiler shall be charged.

34-29A-37. Daily rates charged for other inspections. All other inspections, including shop inspections, special inspections, and inspections of secondhand or used boilers made by the chief or deputy inspector shall be charged for at the rate of not less than ninety dollars for one-half day of four hours, and one hundred fifty dollars for one full day of eight hours, plus all expenses, including traveling and hotel. "Secondhand" means an object which has changed ownership and location after primary use.

34-29A-38. Inspection reports by special inspectors. Each company employing special inspectors meeting the requirements of § 34-29A-6 shall, within thirty days following each certificate inspection made by the inspectors, file a report of the inspection with the Office of the State Fire Marshal upon appropriate forms as promulgated by the National Board of Boiler and Pressure Vessel Inspectors. The filing of reports of external inspections, except for certificate inspections, may not be required unless the inspections disclose that the boiler is in a dangerous condition.

34-29A-39. Certificate issued on special inspector's report. If the report filed pursuant to § 34-29A-38 shows that a boiler is found to comply with the rules and regulations of the Department of Public Safety, the chief inspector or his duly authorized representative, shall issue to such owner or user an operation certificate bearing the date of inspection and specifying the maximum pressure under which the boiler may be operated.

34-29A-40. Posting of certificates. Certificates shall be posted under glass in the room containing the boiler inspected. If the boiler is not located within the building, the certificate shall be posted in a location convenient to the boiler inspected, or in any place where it will be accessible to interested parties.

34-29A-41. Certificate issued on special inspector's report invalid after termination of insurance. No operation certificate issued for an insured boiler based upon a report of a special inspector is valid after the boiler for which it was issued ceases to be insured by a company duly authorized by this state to provide such insurance.

34-29A-42. Duration of certificates issued on special inspector's reports. An operation certificate issued pursuant to § 34-29A-39 is valid for not more than fourteen months from its date in the case of power boilers and high pressure, high temperature water boilers and twenty-six months in the case of heating boilers and hot water supply boilers. In the case of those boilers covered by subdivisions 34-29A-26(1), (2), and (3), for which the chief inspector has established or extended the operating period between required inspections, the certificate is valid for a period not more than two months beyond the period set by the chief inspector.

34-29A-43. Suspension of certificate for unsafe or noncomplying boiler--Duration of suspension. The Department of Public Safety or its authorized representative may at any time suspend an operation certificate when, in its opinion, the boiler for which it was issued, cannot be operated without menace to the public safety, or when the boiler is found not to comply with the rules and regulations herein provided. Each suspension of an operation certificate shall continue in effect until such boiler is made to conform to the rules and regulations of the Department of Public Safety, and until the operation certificate is reinstated.

34-29A-44, 34-29A-45. Repealed by SL 1982, ch 18, §§ 66, 67.

34-29A-46. Record of boilers and inspections. The secretary of public safety, or his designee, shall keep a complete record of the type, dimensions, maximum allowable pressure, age, location, and date of the last recorded inspection of all boilers to which this chapter applies.

34-29A-46.1. Operating boilers--Notification requirements. The owner or installing contractor of a boiler operating in the state subject to this chapter shall notify the Office of the State Fire Marshal of its location and operating pressure. The notification for new boilers shall be given prior to the commencement of operation, and for existing boilers the notification shall be given on or before January 1, 1997. The Department of Public Safety shall adopt rules and forms for implementing this section pursuant to chapter 1-26. A violation of this section is a Class 2 misdemeanor.

34-29A-47. Enforcement actions. The secretary of public safety, or his designee, shall take action necessary for the enforcement of the laws of the state governing the use of boilers to which this chapter applies and of the rules and regulations of the Department of Public Safety.

34-29A-48. Appeals from inspectors--Order approving or disapproving inspector's act. Any person aggrieved by an order or an act of the chief inspector or his deputies, under this chapter may, within fifteen days' notice thereof, appeal from such order or act to the secretary of public safety who shall, within thirty days thereafter, issue an appropriate order either approving or disapproving order or act. A copy of such order by the secretary of public safety shall be given to all interested parties.

34-29A-49. Judicial review of order--Summary hearing. Within thirty days after any order or act of the secretary of public safety, any person aggrieved thereby may file a petition in the circuit court for a review thereof. The court shall summarily hear the petition and may make any appropriate order or decree.

34-29A-50. Prosecution of violators. The secretary of public safety, or his designee, shall cause the prosecution of all violators of the provisions of this chapter.

34-29A-51. Deposit of fees in boiler inspection fund. The secretary of public safety, or his designee, shall deposit all fees received pursuant to §§ 34-29A-35.1 to 34-29A-37, inclusive, to the treasurer of the state for deposit into the boiler inspection fund.

34-29A-52. Expenditure of funds--Expenses included. The chief inspector and his deputies shall be reimbursed for the travel expense incident to the maintenance of his office pursuant to § 3-9-2.

34-29A-53. Municipal ordinances not to be less restrictive--Conflicting ordinances void. No municipality or other governmental subdivision may make any laws, ordinances, or resolutions providing for the construction, installation, inspection, operation, maintenance, and repair of boilers within the limits of such municipality or governmental subdivision which are less restrictive than this chapter. Any such laws, ordinances, or resolutions, whenever made or passed, are void.

BOILER LAW RULES

61:08:01:01. Definitions. Words defined in SDCL [34-29A-1](#) have the same meaning when used in this article. In addition, terms used in this article mean:

- 1) "ASME code," the **American Society of Mechanical Engineers Boiler and Pressure Vessel Code** of the American Society of Mechanical Engineers, July 1, 2001, edition, Sections I, IV, V, and IX; Addenda I, July 1, 2002; Addenda IV, July 1, 2002; Addenda V, July 1, 2002; and Addenda IX, July 1, 2002;
- (2) "Condemned boiler," a condemned boiler or pressure vessel that has been inspected and declared unsafe or disqualified according to legal requirements by an inspector qualified to take such action who has applied a stamp or mark designating its rejection;
- (3) "Electric boiler," a boiler in which the source of heat is electricity;
- (4) "Fired radiators," boiler for purposes of this article;
- (5) "Nonstandard boiler," a boiler or pressure vessel that does not bear the state stamp, the national board stamp, the ASME stamp, or the stamp of a state or political subdivision which has adopted a standard of construction equivalent to that required by the South Dakota boiler inspection program;
- (6) "Portable boiler," an internally fired boiler that is primarily intended for temporary location, the construction and usage of which is obviously portable;
- (7) "Reinstalled boiler," a boiler removed from its original setting and reerected at the same location or erected at a new location without change of ownership;
- (8) "Standard boiler," a boiler or pressure vessel that bears the stamp of the state of South Dakota, another state which has adopted a standard of construction equivalent to that required by the department of commerce and regulation, the ASME, the national board, or equivalent safe construction acceptable to the Department of Public Safety;
- (9) "BTU," British thermal unit;
- (10) "Certificate of competency," a certificate issued to a person who has passed the examination in accordance with SDCL [34-29A-9](#);
- (11) "Department," the Department of Public Safety;
- (12) "External inspection," an inspection made when a boiler is in operation;
- (13) "Internal inspection," an inspection made when a boiler or pressure vessel is shut down and handholes, manholes, or other inspection openings are opened for inspection of the internal surfaces;
- 14) "Inspector," the chief boiler inspector or a deputy inspector or special inspector;
- 15) "Inspection code," the **National Board Inspection Code** of the National Board of Boiler and Pressure Vessel Inspectors, 2001 edition;
- (16) "Major repair," repair as defined by the inspection code;
- (17) "National board," the National Board of Boiler and Pressure Vessel Inspectors;

(18) "Owner or user," a person responsible for the operation or maintenance of a boiler except exempt boilers;

(19) "Psig," pounds per square inch gauge.

(20) "Installer," a contractor or owner who removes, installs, or reinstalls a boiler in a building under the boiler inspector's jurisdiction.

61:08:02:01. Petition for declaratory rule. A person who wishes the Department of Public Safety, Boiler Inspection Program, to make a declaratory ruling, may initiate the action by filing a request in writing with the Department of Public Safety, State Fire Marshal's Office, 118 W. Capitol Avenue, Pierre, South Dakota 57501.

61:08:02:02. Agency action on request. The State Fire Marshal's Office shall consider the request within 30 days.

61:08:02:03. Request for decision from agency. A party with a contested case before the State Fire Marshal's Office may request a final order terminating administrative action and declaring the rights and liabilities of the parties to the contested case by delivering a demand to the State Fire Marshal's Office in person or by certified mail.

61:08:03:01. Manufacturers' data reports to be filed. Manufacturers' data reports on boilers and pressure vessels which are to be operated in the state of South Dakota, unless otherwise exempted by SDCL [34-29A-14](#), shall be filed with the State Fire Marshal's Office through the national board.

61:08:03:02. Owner or user to notify chief inspector of accident. If an accident occurs that renders a boiler inoperative, the owner or user shall notify the State Fire Marshal's Office within 24 hours and shall submit a detailed report of the accident within five days. In case of a serious accident, such as an explosion, notice shall be given immediately by telephone, telegraph, or messenger. The boiler and any of its parts may not be disturbed before an inspection has been made by the boiler inspector or fire marshal, except to save human life.

61:08:04:01. Notice of boiler operation. The owner or contractor of a boiler which will operate in the state of South Dakota under this article shall notify the State Fire Marshal's Office of its location and operating pressure before its installation.

61:08:04:02. Notice of boiler removal. A boiler removed from a location shall be reported to the chief inspector by the person performing the boiler disconnection. If the boiler has been sold, the name and address of the purchaser shall be sent to the State Fire Marshal's Office within 30 days.

61:08:04:03. Notice of portable boiler operation. The owner or operator of a portable boiler brought into the state of South Dakota temporarily shall notify the State Fire Marshal's Office of the expected arrival date, length of operation time, and the removal date as soon as this information has been ascertained.

61:08:05:01. General safety requirements. The safety requirements and controls are those specified in sections I and IV of the ASME code, and the inspection code.

61:08:05:02. Operating and limit controls required. All mechanically fired boilers shall have an operating control and a limit control.

61:08:05:03. Positive flame failure cutoff required. Positive flame failure cutoff is required on automatically fired hot water supply boilers and oil or gas fired processing and heating boilers.

61:08:05:04. Pressure gauge required. All steam boilers shall be equipped with a pressure gauge in accordance with section I or IV of the ASME code, as applicable. Hot water heating boilers shall be equipped with a pressure or altitude gauge in accordance with section IV of the ASME code.

61:08:05:05. Accurate temperature gauge required for water heater boilers. All water heater boilers shall have an accurate temperature gauge. Commercial and domestic service water heaters are exempt from this rule.

61:08:05:06. Gauge glass required on steam boilers. All steam generators with no fixed steam and water line, except forced flow steam, and high temperature water boilers of forced circulation shall be equipped with a gauge glass in accordance with sections I and IV of the ASME code.

61: 08:05:07. Low-water fuel cutoffs required. Each automatically fired steam or vapor system boiler shall be equipped with one or more automatic low-water fuel cutoffs wired in series with the limit controls. It shall be located to cut off the fuel supply automatically when the surface of the water falls to the lowest safe water line. Steam boilers equipped with the electrode type of low-water fuel cutoff are required to have an additional float-operated low-water fuel cutoff.

61:08:05:08. Blowdown valves required. All boilers with a low-water fuel cutoff of the design with a float chamber shall have at least one blowdown valve attached to the chamber for each low-water fuel cutoff as prescribed by the inspection code.

61:08:05:09. Feed water valve and piping requirements. Feed water valves and piping shall conform with section I or IV of the ASME code, as applicable.

61:08:05:10. Mounting requirements for steam pressure gauges. Steam pressure gauges and limit controls shall be mounted on a siphon tube (pigtail) with a minimum diameter of one-fourth inch.

61:08:05:11. Sizing of thermal expansion tanks. Sizing of thermal expansion tanks for low pressure hot water heating systems shall be in accordance with section IV of the ASME code.

61:08:05:12. Water meter required. Repealed.

61:08:05:13. Shutoff switch required. Each boiler, excluding any hot water supply boiler, that operates unattended shall have a shutoff switch at or close to each door. The switch shall be located just outside the boiler room door and shall be marked for easy identification. If the boiler room door is on the building exterior, the switch shall be located just inside the door.

61:08:05:14. Age limit of nonstandard boilers. The age limit of a nonstandard high pressure boiler installed before August 5, 1974, is 30 years. After a thorough internal and external inspection and a hydrostatic pressure test of one and one-half times the allowable working pressure, held for a minimum of 30 minutes, during which time no distress or leakage develops, a boiler with other than a lap-riveted longitudinal joint may be continued in operation without a reduction in working pressure.

61:08:05:15. Age limit of boilers in excess of 30 inches with lap-riveted longitudinal joints. The age limit of a boiler with lap-riveted longitudinal joints and operating at a pressure in excess of 50 psig is 20 years. When removed from an existing setting, this type of boiler shall not be reinstalled for a pressure in excess of 15 pounds. A reasonable time for replacement not to exceed one year may be given at the discretion of the chief boiler inspector. .

61:08:05:16. Computation of maximum allowable working pressure -- Standard boilers. The maximum allowable working pressure for existing standard boilers shall be computed in accordance with the formulas in section I or IV of the ASME Code applicable at the time of construction.

61:08:05:17. Computation of maximum allowable working pressure -- Nonstandard boilers.

Nonstandard boilers with welded seams may not be operated at pressures exceeding 15 psig for steam or 30 psig for water. The maximum allowable working pressure for nonstandard boilers with other than welded seams shall be computed according to the following formula:

- (1) The maximum allowable working pressure for nonstandard boilers is a function of the strength of the weakest section of the structure. This strength shall be computed by multiplying the ultimate tensile strength of shell plate, psig, by the minimum thickness of the weakest course of shell plate, in inches. This sum is then multiplied by the efficiency of the longitudinal joint as specified by subdivision (2) of this section. The result of this calculation is then divided by the product of the inside radius of the weakest course of the shell or drum, in inches, multiplied by the factor of safety permitted by § 61:08:05:17.04. The final result of this calculation indicates the maximum allowable working pressure in psig.
- (2) When stated symbolically this formula shall read:

$TStE$ =maximum allowable working pressure, psig

RFS

where:

TS =ultimate tensile strength of shell plates, psig.

t =minimum thickness of shell plate, in weakest course, in inches.

E = efficiency of longitudinal joint:

For tube ligaments, E shall be determined by the rules given in Section I of the ASME code.

For riveted construction refer to Part PR of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, 2001 Edition of Section I.

For seamless construction, E is considered 100 percent.

R =inside radius of the weakest course of the shell, in inches.

FS =factor of safety permitted.

61:08:05:17.01. Tensile strength. When the tensile strength of steel or wrought iron shell plates is not known, it shall be taken as 55,000 psig for steel and 45,000 psig for wrought iron.

61:08:05:17.02. Crushing strength of mild steel. The resistance to crushing of mild steel shall be taken at 95,000 psig.

61:08:05:17.03. . Strength of rivets in shear. When computing the ultimate strength of rivets in shear, the following values in pounds per square inch of the cross-sectional area of the rivet shank shall be used:

	PSIG
Iron rivets in single shear	38,000
Iron rivets in double shear	76,000
Steel rivets in single shear	44,000
Steel rivets in double shear	88,000

When the diameter of the rivet holes in the longitudinal joints of a boiler is not known, the diameter and cross-sectional area of rivets, after driving, may be selected from Table 1, or may be ascertained by cutting out one rivet in the body of the joint.

TABLE 1 - SIZES OF RIVETS BASED ON PLATE THICKNESS

Thickness of plate – inches	1/4	9/32	5/16	11/32	3/8	13/32
Diameter of rivet after driving – inches	11/16	11/16	3/4	3/4	13/16	13/16
Thickness of plate – inches	7/16	15/32	1/2	9/16	5/8	
Diameter of rivet after driving – inches	15/16	15/16	15/160	1-1/16	1-1/16	

61:08:05:17.04. Factors of safety. The working pressure shall be decreased by the inspector if the condition and safety of the boiler warrants it. The following factors of safety represent minimum values to be used.

The lowest factor of safety permissible on existing installations is 4.5, except for horizontal-return-tubular boilers with continuous longitudinal lap seams more than 12 feet in length, for which the factor of safety is 8. When the latter type of boiler is removed from its existing setting, it shall not be reinstalled for pressures in excess of 15 psig.

61:08:05:18. Maximum allowable working pressure for new cast iron boilers. Repealed.

61:08:05:19. Minimum safety factor for reinstalled boilers. Reinstalled and secondhand boilers shall have a minimum safety factor of five when the longitudinal seams are of butt and double strap construction.

61:08:05:20. Safety valves required. Each boiler having less than 500 square feet of water heating surface shall have the minimum of one safety valve. Those boilers with more than 500 square feet of heating surface or an electric boiler with power input of more than 500 kilowatts shall have a minimum of two safety valves.

61:08:05:21. Placement of safety valves. No stop valves shall be installed between a safety valve or relief valve and the boiler. On existing installations the safety or relief valve shall be mounted within three feet of the steam stop valve or an additional safety or relief valve shall be installed directly on the boiler.

61:08:05:22. Safety and relief valve design. Safety and relief valves shall be designed and constructed in accordance with section I or IV of the ASME code, as applicable.

61:08:05:23. Safety valve repair. Repairs or adjustments made to safety or safety relief valves shall be made by the manufacturer of the valve or an ASME approved testing facility equipped to repair the valves. On boilers requiring only a single safety or relief valve, the discharge setting shall not exceed the established maximum allowable working pressure of the boiler. On installations requiring more than one safety or relief valve, the range of safety or relief valve setting shall be in accordance with section I and IV, of the ASME code.

61:08:05:24. Safety valve capacity. Minimum safety valve capacity shall be in accordance with section I or IV of the ASME code, as applicable. For electric boilers the minimum safety valve capacity shall be obtained by allowing three and one-half pounds of steam per kilowatt input.

61:08:05:29. Blowoff pipes and valves required. Each boiler shall have a blowoff pipe and valve connected to the lowest water space practicable and fitted with blowoff valves in accordance with section I or IV of the ASME code, as applicable.

61:08:05:30. Relief valves required with pressure reducing valves. When a pressure reducing valve is used, one or more relief or safety valve shall be provided on the low pressure side of the reducing valve in case the piping or equipment on the low pressure side does not meet the requirements for full initial pressure.

61:08:05:31. Pressure gauges required on low pressure side of reducing valves. A pressure gauge shall be installed on the low pressure side of the reducing valve. The pressure gauge shall be mounted on a siphon tube (pigtail) no less than one-fourth inch in diameter.

61:08:05:32. . Automatic limiting devices required on steam and hot water heating boilers. Steam and hot water heating boilers shall be provided with automatic limiting devices for shutting down the burner or burners to prevent boiler steam pressure or boiler water temperature from exceeding the maximum allowable working pressure or temperature.

61:08:05:33. Individual control valves and drain valves required on low pressure steam boilers. Low pressure steam and hot water boilers shall be provided with means of introducing feed or makeup water from a water supply through an individual control valve connected to the boiler piping system. A drain valve shall also be provided and connected with the lowest water space for the purpose of draining or flushing the boiler.

61:08:06:01. Inspection fees. Repealed.

61:08:06:02. Suspension of certificate if inspection is refused. If the owner or user of a boiler required to be inspected refuses to allow an inspection to be made, the certificate of inspection shall be suspended by the inspector until the owner or user complies with the requirements. .

61:08:06:03. Special inspector reports. Each special inspector shall notify the State Fire Marshal's Office within 30 days of all boilers insured, cancelled, not renewed, or suspended because of unsafe conditions. If, upon inspection, a special inspector finds a boiler or pressure vessel to be unsafe for further operation, the inspector shall notify the owner or user within one hour stating what repairs or other corrective measures are required. Unless the owner or user agrees to make such repairs or adopt other corrective measures, the special inspector shall notify the chief inspector. Until the corrections have been made, no further operation of the boiler is permitted. If an operation certificate for the boiler is then in force, it shall be suspended. A special inspector shall file a complete report of each boiler inspection with the State Fire Marshal's Office. The special inspector shall list the national board number, if available, and the state number on each boiler inspection report. The initial report shall be filed on standard form NB-5. Any subsequent report shall be filed on form NB-6. External inspection on high pressure boilers need not be reported unless hazardous conditions that would affect the safety of the boiler exist.

61:08:06:06.01. Extension of internal inspection at the discretion of the inspector -- Posting of certificate. Repealed.

61:08:06:07. New installation requirements. Any new boiler to be installed in the state of South Dakota shall be reported by the installer to the State Fire Marshal's Office except any boiler exempted by SDCL [34-29A-14](#). Any new boiler shall meet the following requirements:

- (1) Each new high and low pressure steel boiler to be installed in South Dakota shall be stamped in accordance with the ASME code, as applicable, and registered with the national board;
- (2) Each cast iron boiler shall be constructed in accordance with section IV of the ASME Code;
- (3) Each boiler shall have an ASME-stamped pressure or relief valve;
- (4) The stamping may not be concealed by insulation or paint. It shall be exposed at all times unless a record of the location of the stamping is kept with the operation certificate; and
- (5) Each hot water supply boiler operating with a BTU input of 200,000 or more shall be equipped with temperature and pressure relief valves bearing appropriate American Gas Association ratings or with electric high limit actuated controls of the emersion type located at the highest practicable section of the hot water supply boiler. The electric controls may be accepted when wired in series with the combustion control and the boiler is equipped with the right size ASME relief valve.

61:08:06:08. State serial number. Upon completion of the installation, an internal inspection shall be made of each boiler by an inspector. At the time of the internal or certificate inspection each boiler shall be stamped by the inspector with a serial number of the state of South Dakota. The serial number shall consist of the letters SD followed by numbers as assigned. The State Fire Marshal's Office shall assign a block of numbers to each insurance company supplying boiler insurance and operating in the state of South Dakota.

Each steel boiler shall have the state serial number stamped on the shell of the boiler adjacent to manufacturer's data.

Each cast iron boiler shall have the state serial number stamped on a one and one-fourth inch by four inch aluminum plate attached to the jacket or the steam or water column.

The ASME number or South Dakota number of a condemned boiler shall be crossed out as follows:
XXXXXX.

61:08:06:09. Inspection preparation by owner. All boilers other than those exempted by SDCL [34-29A-14](#) are subject to regular inspection. When notified by an inspector, the owner or user shall prepare the boiler for inspection or hydrostatic tests. Not less than seven days after the notification date the owner or user shall prepare each boiler for internal inspection and shall prepare for and apply the hydrostatic test, whenever necessary, on the date specified by the inspector. The preparation shall be as follows:

- (1) Water shall be drawn off and the boiler thoroughly washed;
- (2) All manholes, handholes, plates, washout plugs, and plugs in water column connections shall be removed;
- (3) At the discretion of the inspector, the furnace and combustion chambers shall be thoroughly cooled and cleaned and the steam gauge and safety valves removed for testing;
- (4) If a boiler has not been properly prepared for internal inspection or the owner or user fails to comply with the requirements for hydrostatic tests as set forth in this section, the inspector shall decline to make the inspection or test. The operation certificate shall be withheld until the owner or user complies with the requirements.

61:08:07:01. Repair standards. Any repair made in accordance with this chapter shall be as safe as the original construction. The quality of repair materials shall conform to the requirements of the inspection code. Repairmen shall supply the South Dakota State Fire Marshal's Office with the general requirements for the repair and alteration of each boiler as outlined by R-300 of the inspection code.

61:08:07:02. Repair notification. No major repair or alteration by welding in accordance with this chapter may be made without notifying an authorized inspector. If a boiler requires major repair, the operation certificate shall be suspended until notice is received by the State Fire Marshal's Office and the boiler repair is approved by an authorized inspector. The inspector shall require, as necessary, an inspection of the boiler before granting approval. If a hydrostatic test is necessary, the test shall be applied after the repair or alteration has been completed.

61:08:08:01. Boilers with manholes. New boilers equipped with manholes shall have a minimum of five feet clearance from the top of the boiler to the boiler room ceiling. Replacement boilers located in the same boiler room shall comply as closely as possible.

61:08:08:02. Boilers without manholes. New boilers without manholes shall have a minimum of three feet clearance from the top of the boiler to the boiler room ceiling. Replacement boilers located in the same boiler room shall comply as closely as possible.

61:08:08:03. New boiler installation. All new boilers shall be installed to allow for removal of tubes without removing walls or other structures. The front or rear of a boiler larger than 200,000 BTU output shall not be located any closer than three feet to a wall, structure, or other boiler..

61:08:08:04. Boiler room exits. All boiler rooms that have an area of over 500 square feet and a boiler output of over 400,000 BTU shall have two doors or exits.

61:08:09:01. Definitions. Words defined in SDCL [34-29A-1](#) have the same meaning when used in this chapter. In addition, terms used in this chapter mean:

- (1) "ASME," American Society of Mechanical Engineers;
- (2) "Hydrostatic test," a test performed to detect leaks, as prescribed in §§ 61:08:09:25 to 61:08:09:28, inclusive;
- (3) "Inspector," a person qualified to inspect historic boilers pursuant to § 61:08:09:55;
- (4) "MAWP," the maximum allowable working pressure of a boiler calculated by the formula in § 61:08:09:13;
- (5) "National Board," National Board of Boiler and Pressure Vessel Inspectors;
- (6) "psi," pounds per square inch;
- (7) "Repairs," the work necessary to restore a historic power boiler to or maintain the boiler in a safe operating condition provided there is no basic change in the original design;
- (8) "Schedule 80," pipe thickness requirements;
- (9) "Ultrasonic examination," a method of examination using ultrasound which provides indications of surface and subsurface discontinuities in the metal.

61:08:09:02. Schedule of inspections. An inspector shall conduct an initial inspection of each historic boiler during the first year following March 10, 1997. The initial inspection shall include an ultrasonic examination conducted pursuant to Article 4, Section V, 2001 **ASME Boiler & Pressure Vessel Code**, an internal inspection conducted pursuant to § 61:08:09:05, and an external inspection pursuant to § 61:08:09:31.

During the second year following March 10, 1997, an inspector shall conduct a hydrostatic test pursuant to § 61:08:09:24.

During the third year following March 10, 1997, and every sixth year thereafter, an inspector shall conduct a hydrostatic test or an external inspection.

During the sixth year following March 10, 1997, and every sixth year thereafter, an inspector shall conduct an ultrasonic examination or an internal inspection.

Additional tests may be performed at any time an inspector considers it necessary for continued safe operation of the boiler.

61:08:09:03. Inspection fees. The owner or user of a boiler required by SDCL [34-29A-14.1](#) to be inspected shall pay directly to the state of South Dakota through the Office of the Fire Marshal, upon completion of the inspection, fees in accordance with the following schedule:

(1)Initial inspection	\$100 and travel
(2)Hydrostatic test	\$ 45 and travel
(3)Ultrasonic examination	\$ 75 and travel
(4)Visual internal and external inspections	\$ 45 and travel

Travel is paid at the applicable state rate for the time period during which the inspection occurs. Travel includes transportation, meals, and lodging.

The fee for any other inspections is a minimum of \$90 for one-half day of four hours and \$150 for one full day up to eight hours, plus travel.

61:08:09:04. Appeal from decision by inspector. An appeal may be taken to the Office of the Fire Marshal by any person affected by the decision of an inspector. An appeal filed pursuant to this section is a contested case pursuant to SDCL [1-26](#). The fire marshal's decision is final.

61:08:09:05. Internal inspection of boilers. An inspector shall conduct all internal inspections of boilers as set forth in §§ 61:08:09:07 to 61:08:09:29, inclusive.

61:08:09:06. Preparation of boiler for internal inspection. The owner or user shall prepare a boiler for internal inspection by:

- (1) Removing all handhold plates, washout plugs, and inspection plugs;
- (2) Thoroughly washing the water side of the boiler;
- (3) Cleaning the fire side of boiler parts, including the flues, of all loose soot and ashes; and
- (4) Removing excessive scale or other deposits by chemical or mechanical means.

If a boiler has not been prepared in accordance with this section, the inspector may refuse to conduct the inspection.

61:08:09:07. Internal inspection -- Openings. The inspector shall examine all openings into a boiler for evidence of defects. If possible, the openings for water glass connections, safety valves, steam gauges, blowoff valves, and fusible soft plugs must be inspected during each internal inspection.

61:08:09:08. Internal inspection -- Evidence of overheating. The inspector shall determine whether or not any part of the boiler or the boiler tubes exposed to the fire have been deformed by bulging or blistering. If a bulge or blister is of sufficient size to seriously weaken the tube or plate, especially when there is evidence of leakage, the damaged area must be repaired before the boiler is fired again. If the bulged area is not extensive, the bulge may be repaired by installing a staybolt in the center of the bulged area.

61:08:09:09. . Internal inspection -- Condition of flues. The inspector shall examine flues for cleanliness on the fire side and for scale buildup on the water side, and excessive buildups must be removed before the boiler is fired again. If flues have been rerolled or replaced, the inspector shall check the workmanship and ensure that the flues have been beaded over on the firebox end.

61:08:09:10. Internal inspection -- Checking for cracks. The inspector shall examine areas where cracks are most likely to occur. If there is evidence of leakage or other defects in any of these areas, the inspector shall examine the spot further.

61:08:09:11. Internal inspection -- Extent of corrosion. The inspector shall check on the extent to which corrosion has progressed in the boiler metal. If corrosion has affected any area, the thickness of the remaining metal must be determined by using ultrasonic equipment pursuant to Article 4, Section V, 2001ASME Boiler & Pressure Vessel Code.

61:08:09:12. Internal inspection -- Test of staybolts. The inspector shall examine staybolts with holes for evidence of leakage which would indicate a broken or cracked staybolt. Broken or cracked staybolts must be replaced.

61:08:09:13. Maximum allowable working pressure. The maximum allowable working pressure (MAWP) of a boiler is determined by the strength of the weakest part of the boiler. A boiler may not be operated above its MAWP.

The MAWP on the shell or drum is determined by the following formula:

$$\text{MAWP} = \frac{\text{TS} \times t \times E}{R \times \text{FS}}$$

R x FS

Where

TS = 55,000 (lbs/sq in)

t = minimum thickness of the plate (in inches)

E = efficiency of the joint (nondimensional), as set forth in Appendix A at the end of this chapter

R = inside radius of the shell (in inches)

FS = safety factor of 5.0 (nondimensional)

61:08:09:14. Requirements for hydrostatic pretest. Before placing the boiler under pressure for a hydrostatic test pursuant to §§ 61:08:09:25 to 61:08:09:28, inclusive, the inspector must determine that the boiler and accessories meet the requirements set forth in §§ 61:08:09:15 to 61:08:09:23, inclusive.

61:08:09:15. Hydrostatic pretest -- Pipe requirements. Each pipe and pipe fitting 1/2 inch or larger must meet the thickness requirements of the **Machinery's Handbook**, 26th edition, up to and including, the first stop valve.

61:08:09:16. Hydrostatic pretest -- Steam gauge connections. Each boiler must have a steam gauge connected to the steam space by a siphon or an equivalent device of sufficient capacity to keep the gauge tube filled with water. This connection must be arranged so that the gauge cannot be shut off from the boiler except by a cock placed near the gauge. This cock must be provided with a tee or lever-type handle. When the cock is open, the tee or lever must be parallel to the pipe in which the cock is located.

61:08:09:17. Hydrostatic pretest -- Steam gauge capacity. The capacity of the pressure gauge must be approximately double the pressure at which the safety valve is set. It may not be less than 1 1/2 times the MAWP.

61:08:09:18. Hydrostatic pretest -- Safety valve requirements. Each boiler must be equipped with a safety valve which will discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than six percent above the MAWP. One safety valve may be set no higher than the MAWP. Safety valves must be sealed by the holder of an ASME "V" or National Board "VR" Certificate.

61:08:09:19. Hydrostatic pretest -- Steam outlet requirements. Each threaded steam outlet from a power boiler, except to the water column, the fusible soft plug and the safety valve connections, must be fitted with a stop valve located as close as practicable to the boiler. Schedule 80 pipe must be used between the boiler and the first stop valve. If a globe valve is used, the inlet pressure must be under the disk of the valve.

61:08:09:20. Hydrostatic pretest -- Blowoff valve requirements. Each locomotive and vertical-type boiler must have a blowoff pipe in direct connection with the lowest water space practicable. The pipe must be fitted with a stop valve and run full size without reducers or bushings.

61:08:09:21. Hydrostatic pretest -- Feed water pipe requirements. The feed water pipe of a boiler must be provided with a check valve; however, there must be a stop valve between the boiler and the check valve. Both of those valves must be located as close as practicable to the boiler.

61:08:09:22. Hydrostatic pretest -- Feed water supply. Each steam boiler with a grate area of more than six square feet must have two means of feeding water into the boiler.

61:08:09:23. Hydrostatic pretest -- Water level indicator. Each boiler must be equipped with at least one water glass. Each boiler with more than six square feet of grate area must have one additional water glass or must be equipped with try-cocks. The lowest visible part of the water glass must be at least two inches above the crown sheet. The lowest try-cock must be at least two inches above the crown sheet.

61:08:09:24. Requirements to perform hydrostatic test. If the inspector determines that the boiler has satisfactorily met the conditions outlined in §§ 61:08:09:15 to 61:08:09:23, inclusive, the inspector may proceed with the hydrostatic test as set forth in §§ 61:08:09:25 to 61:08:09:28, inclusive.

61:08:09:25. Required hydrostatic test pressure. The hydrostatic test pressure may not exceed 1 1/2 times the MAWP calculated by the formula in § 61:08:09:13.

61:08:09:26. Hydrostatic test -- Required water temperature. The temperature of the water used during the hydrostatic test may not be less than 70 degrees F (16 degrees C), and the maximum temperature during inspection may not exceed 120 degrees F (49 degrees C).

61:08:09:27. Hydrostatic test -- Safety valve and steam gauge requirements. During the initial portion of the hydrostatic test, the safety valve and steam gauge may be left in place to see if they function properly up to a maximum of 10 percent over the MAWP calculated by the formula in § 61:08:09:13 or they may be removed and tested separately. For hydrostatic pressures greater than 110 percent of the MAWP, the steam gauge and the safety valve must be removed. The safety valve spring may not be compressed to prevent the valve from opening.

61:08:09:28. Duration of hydrostatic test. The hydrostatic test pressure must be held long enough for the inspector to thoroughly examine the boiler for leaks and any evidence of failure. All sheets, plates, and seams must be examined for leaks and bulging and all piping and accessories must be examined for leaks and evidence of failures.

61:08:09:29. Ultrasonic examination for thickness determination. Ultrasonic examination for thickness determination may be made using the pulse-echo technique. Ultrasonic examination provides indications of surface and subsurface discontinuities. If an ultrasonic thickness reading is below a desired value, the area around that reading must be examined as follows:

Using the low reading point as the center, superimpose an 8-inch point as the center, superimpose an 8-inch square on the area, and take 20 readings spaced on 2-inch centers on the perimeter and within the square. The average of these 20 readings is used as the minimum boiler thickness in the 8-inch square area.

61:08:09:30. Internal inspection report. The inspector shall forward the internal inspection report to the Office of the Fire Marshal and to the owner of the boiler.

61:08:09:31. External inspections and tests. An inspector shall conduct all external inspections and tests of boilers in accordance with §§61:08:09:33 to 61:08:09:37, inclusive.

61:08:09:32. Preparation of boiler for external inspection. The owner or user of the boiler shall prepare for an external inspection by:

- (1) Installing all handhold plates, washout plugs, and inspection plugs;
- (2) Filling the boiler with water to the desired level in preparation for firing the boiler;
- (3) Installing the safety valves, steam gauge, and other essential equipment needed to build up and maintain normal operating pressure; and
- (4) Removing all lagging and insulation.

61:08:09:33. External inspection -- Cleanliness and ASME compliance. The inspector shall observe the general cleanliness of the boiler and its auxiliary equipment. The boiler fittings, valves, and piping must be checked for compliance with requirements contained in Part PG, Section I, 2001ASME Boiler & Pressure Vessel Code, and with §§ 61:08:09:15 to 61:08:09:23, inclusive.

61:08:09:34. External inspection -- Evidence of leakage. The inspector shall investigate any steam or water leak. Leakage coming from under supports must be thoroughly investigated.

61:08:09:35. External inspection -- Water glass requirements. Early in the external inspection the water and steam passageways must be blown down separately to ensure that both connections are clear. The inspector shall observe the blowdown of the water glass to verify the immediate return of water to the glass. The procedure to use in blowing down the glass is as follows:

- (1) Close the lower valve, then open the drain cock and blow the glass down;
- (2) Close the drain cock and open the lower valve. Water should return to the glass immediately;
- (3) Close the upper valve, then open the drain cock and allow the water to flow until it runs clear;
- (4) Close the drain cock and open the upper valve. Water should return to the glass immediately.

If this procedure does not show that both connections are clear, the boiler must be shut down.

61:08:09:36. External inspection -- Safety valve requirements. If the set pressure is not above 400 psi, the safety valves must be tested by allowing the pressure in the boiler to rise to the popping pressure and observing the results. If the results indicate that a safety valve is leaking, failing to open or close promptly, showing signs of sticking, or failing to stop further pressure build-up, steps must be taken to prevent further pressure build-up and the boiler must be taken out of service until the defective valve is repaired or replaced.

61:08:09:37. External inspection -- Blowoff piping requirements. The blowdown of the boiler must be demonstrated to the inspector in a sufficient amount to ensure that the valve is functioning properly. The valve must be attached as described in §61:08:09:20 or the boiler must be equipped as original.

61:08:09:38. External inspection report. The inspector shall make recommendations for the correction of any defect or deficiency at the conclusion of the external inspection and note them on the inspection report. The inspector shall forward the inspection report to the Office of the Fire Marshal and to the owner of the boiler.

61:08:09:39. Repairs to historic power boilers. Unless otherwise specified and subject to the approval of the inspector, each welded repair must conform insofar as possible to Part RC, 2001 **National Board Inspection Code**, with consideration given to preserving the original appearance and intended function of the boiler as safety permits. The repair standard selected must be the one most compatible with the nature of the repair, the original construction, and the present operating conditions.

61:08:09:40. Minor repairs. The following minor repairs must be documented by the owner:

- (1) Replacement of boiler flues, pipe, and pipe fittings;
- (2) The welding of nonpressure attachments to the pressure vessel when the procedure does not involve any removal or undercutting of the metal;
- (3) Repairs to threaded openings in the boiler, provided that the procedure does not require removing more metal than would be necessary to accommodate the next larger size pipe;
- (4) Seal welding on staybolts; and
- (5) Installation of doughnuts to repair threaded openings.

Documentation of minor repairs must be provided to the inspector at the next regularly scheduled inspection.

61:08:09:41. Major repairs. A major repair involves the removal and replacement of areas of the boiler that are under pressure utilizing a welded procedure. Major repairs to a boiler must be discussed with an inspector before starting the work and the inspector must approve both the materials and the methods to be used. A record of materials used must be maintained by the owner and provided to the inspector upon completion of the major repair.

61:08:09:42. Tests following major repairs. The inspector may require a hydrostatic pressure test or another method of testing for leaks acceptable to the inspector after a boiler has had major repairs made on it. Tests must be carried out as described in §§ 61:08:09:25 to 61:08:09:28, inclusive, for hydrostatic tests and § 61:08:09:29 for ultrasonic tests.

61:08:09:43. Repair methods. Both major and minor repairs must be made according to the standards in §§ 61:08:09:44 to 61:08:09:52, inclusive.

61:08:09:44. Repair of defects. Defects such as a crack in a welded joint or deep pitting must be completely removed before repair. If the defect penetrates the full thickness of the material, the repair must be made with a complete penetration weld such as a double butt weld or a single butt weld, with or without backing.

61:08:09:45. Repair of cracks. Before repairing a cracked area, care must be taken to determine the cause of the crack and its extent. If it appears that the crack is likely to recur, consideration must be given to removing the cracked area and installing a flush patch or taking other corrective action.

61:08:09:46. Repair of minor cracks and imperfections. Minor cracks, isolated pits, and small plate imperfections must be examined to determine the extent of the defect and whether or not repair by welding is required. Prior to repair by welding, the defects must be removed to sound metal.

61:08:09:47. Repair of cracks radiating from holes. Cracks radiating from staybolt or rivet holes may be repaired if the plate is not seriously damaged.

61:08:09:48. Repair of welded butt joints. Welded butt joints must have complete penetration and fusion for the full length of the weld. The surfaces of the weld may be left as welded, if they are sufficiently free from coarse ripples and valleys to avoid stress concentration points. The owner may not overlay a weakened area with a patch.

61:08:09:49. Repair of wasted surfaces. Wasted surfaces in stayed or unstayed areas may be built up by welding if, in the judgment of the inspector, the structural strength will be adequate.

61:08:09:50. Welding on butt straps. Welding may be used to restore the original dimensions of the edges of butt straps, plated laps, or connections attached by riveting; however, prior approval by the inspector is required.

61:08:09:51. Staybolt replacement. Threaded staybolts may be replaced by welded-in stays if, in the judgment of the inspector, the area adjacent to the staybolt has not been seriously weakened by deterioration.

61:08:09:52. Inspection of welds. Completed welds must be inspected for appearance and unsatisfactory conditions, such as cracks, excessive reinforcement, and undercutting.

61:08:09:53. Approval of major repairs and report. All major repairs must be approved by the inspector before the start of the work. The inspector may inspect the work while it is in progress. Any defects in the repair work must be discussed with the owner, and recommendations for corrective action must be made at this time and noted in the Report of Welded or Riveted Repairs. The inspector shall forward this report to the Office of the Fire Marshal, the chief boiler inspector, and the owner of the boiler.

61:08:09:54. Requirements for construction of new boilers. Each new boiler shall conform to Section I, 2001 ASME Boiler & Pressure Vessel Code. A record must be maintained by the owner of all materials used in the construction of any portion of the boiler that is under pressure. These records must include the type of welding rod and welding equipment used, the source of the boiler plate and rivets, and the thickness of the materials used.

61:08:09:55. Qualifications of inspectors. Anyone who holds a commission as an inspector pursuant to Part RA, 2001 National Board Inspection Code, as in effect March 16, 1996, may obtain authority to inspect historic boilers in South Dakota by providing written evidence of the commission to the State Fire Marshal's Office. Authority to inspect historic boilers in South Dakota expires upon expiration of the inspector's National Board commission.

FIRE PREVENTION

34-29B-1. Definition of terms. Terms as used in this chapter mean:

- (1) "Alternative," a system, condition, arrangement, material, or equipment submitted to the fire marshal as a substitute for a code requirement;
- (2) "Approval," to sanction officially by signature or certificate;
- (3) "Approved," acceptable to the authority having jurisdiction;
- (4) "Certificate," a written document issued by authority of the fire marshal to any person for the purpose of granting permission to that person to conduct or engage in any operation or act for which certification is required;
- (5) "Department," Department of Public Safety;
- (6) Deleted by SL 2004, ch 17, § 209;

- (7) "Fire hazard," any situation, process, material, or condition that, on the basis of applicable data, may cause a fire or explosion or provide a ready fuel supply to augment the spread or intensity of the fire or explosion and that poses a threat to life or property;
- (8) "Fire official," any authorized person serving as an employee, representative, or agent, of a certified fire department or state fire marshal;
- (9) "Inspection," a close and critical examination;
- (10) "Inspector," a person who examines buildings, equipment, and processes for the purpose of affecting proper conditions with reference to fire and life safety;
- (11) "Investigation," the act of investigating fires to determine the cause and circumstances of the origin of the fire;
- (12) "Premises," a tract of land with structures or other appurtenances thereon;
- (13) "Standard," substantially uniform, well established and widely recognized as acceptable and authoritative procedure or procedure as adopted in rule by the division;
- (14) "State fire marshal," the individual designated in this chapter, who is responsible for the administration and enforcement of this chapter. For the purpose of enforcement of this chapter, this term also applies to any person who is a representative of the fire marshal;
- (15) "Structure," is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner;
- (16) "Summarily abate," to immediately judge a condition to be a fire hazard to life or property and to order immediate correction of such condition;
- (17) "Vehicle," every device in, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks; including bicycles and ridden animals;
- (18) "Vessel," every type of water craft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;
- (19) "Written notice," a notification in writing delivered in person to the individual or parties intended, or delivered at, or sent by first class, certified or registered mail to, the last residential or business address of legal record.

34-29B-2. Program for prevention, investigation, training, and education--Promulgation of rules. The State Fire Marshal shall establish a program of fire prevention, fire investigation, fire training, and public fire education. The secretary may promulgate rules, pursuant to chapter 1-26, to protect the health or safety of persons from fire and like emergencies, based on codes and standards set forth by the International Building Code, the International Fire Code, and the International Mechanical Code, 2003 editions, and referenced standards except such portions as are deleted, modified, or amended, unless the secretary finds that the strict application of the code is impractical and that the modification is in conformity with the intent and purpose of the code or standards. The rules may be adopted in the following areas:

- (1) The prevention of fires including:
 - (a) Fire safety regulations governing buildings used by the general public with the exception of health care facilities inspected by the Department of Health;
 - (b) Fire safety regulations governing lodging and eating establishments;
 - (c) Fire safety regulations governing multifamily residences housing six or more families. However, if a municipality has adopted regulations regarding multifamily residences that are in conformity with this chapter, they are the applicable regulations;
 - (d) Fire safety regulations governing publicly owned buildings;
 - (e) Fire safety regulations governing detention or correctional facilities, regardless of ownership; and
 - (f) Fire safety regulations governing day care facilities;
- (2) The manufacture, transportation, storage, sale, and use of combustible or flammable liquids or liquefied petroleum gases;
- (3) The means and adequacy of exit in case of fire;
- (4) The investigation of the cause, origin, and circumstances of fires and explosions;
- (5) The maintenance of fire cause and loss records;
- (6) The maintenance of a record of fire prevention inspections;
- (7) A program of fire service training and public fire education;
- (8) The review and approval of plans and specifications to determine compliance with applicable fire codes and statutes as it pertains to facilities dealing with combustible or flammable liquids and or liquid petroleum gases; and
- (9) The abatement of unsafe buildings or structures regulated by this chapter which constitute a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, or abandonment.

34-29B-3. State fire marshal--Appointment and approval--Deputies. The state fire marshal shall administer and enforce this chapter. The state fire marshal shall be appointed by the department secretary with the approval of the Governor and serve at the pleasure of the Governor and shall operate under the supervision of the secretary of public safety. The state fire marshal may designate a chief deputy and such deputy fire marshals as may be authorized.

34-29B-4. Inspection--Permission or warrant required--Credentials. Any fire official engaged in fire prevention and inspection work may at all reasonable times enter and examine any building, structure, vessel, vehicle, or premises for the purpose of making fire safety inspections. The fire official shall first obtain the consent of the occupant thereof or obtain an inspection warrant pursuant to chapter 34-43 except in those instances where an emergency exists. As used in this section, "emergency" means circumstances which a fire official has reason to believe exist, which may constitute immediate danger to life and property.

Any fire official authorized to enter and inspect buildings, structures, vessels, vehicles, or premises shall be identified by proper credentials issued by a governmental jurisdiction or the state fire marshal.

34-29B-5. Powers of fire official at the scene of a fire. Any fire official in charge at the immediate scene of a fire involving the protection of life or property or both, may direct the operation to extinguish or control any fire and investigate the existence of suspected or reported fires. In the exercise of such power, such fire official may prohibit any person, vehicle, or vessel from approaching the fire scene and may remove or cause to be removed or kept away from the scene any person, vehicle or vessel which may impede or interfere with the operations of the fire official.

34-29B-6. Interference with, or disobedience of, fire official as misdemeanor. It is a Class 1 misdemeanor for any person to interfere with a fire official or law enforcement official carrying out any duties or functions prescribed by this chapter. It is also a Class 1 misdemeanor for any person to disobey a lawful order of a fire official or law enforcement official.

34-29B-7. Impersonating official as misdemeanor. It is a Class 1 misdemeanor for any person to use an official badge, uniform, or other credentials to impersonate a fire official for the purpose of gaining access to any building, structure, vessel, vehicle, or premises in a jurisdiction.

34-29B-8. Fire marshal to investigate circumstances of fire or explosion. The state fire marshal may investigate the cause, origin, and circumstances of fire or explosions by which property has been destroyed or damaged and, attempt to determine whether the fire or explosion is the result of carelessness or design. The state fire marshal may take charge of the physical evidence, shall notify the proper authorities designated by law to pursue the investigation of such matters, and shall cooperate with the authorities in the collection of evidence and the prosecution of the case.

34-29B-9. Written report to fire marshal. Every fire shall be reported in writing to the state fire marshal by the fire department officer in whose jurisdiction such a fire has occurred within thirty days of the occurrence. The report shall be in a form prescribed by the state fire marshal and shall contain a statement of all facts relating to the cause, origin, and circumstances of the fire, the extent of the damage, the insurance upon such property and any other information as may be required, including the injury, death, or rescue of persons.

34-29B-10. Periodic inspection of premises--Orders to enforce laws and regulations-- Penalties. The state fire marshal may inspect or cause to be inspected premises as authorized in this chapter on a periodic basis, and may make any orders as may be necessary for the enforcement of the laws and regulations governing the same and for the safeguarding of life and property from fire. Any owner or occupant failing to comply with such order within a reasonable period after the service of the order may be liable to penalties as provided in this chapter.

34-29B-11. Fire marshal empowered to abate immediate fire hazards. The state fire marshal may summarily abate any condition that is in violation of any provision of this chapter that presents immediate fire hazard to life or property.

34-29B-11.1. Fire marshal may prohibit or restrict open burning. The state fire marshal, after consultation with the Governor and the affected board of county commissioners, may prohibit or restrict open burning within a county in order to protect the public health and safety. This section does not limit or affect the laws of this state relating to the authority of counties or other local entities to prohibit or restrict open burning.

34-29B-12. Review of fire marshal's actions--Appeal. Any person aggrieved by any action or decision of the state fire marshal pursuant to this chapter may seek review of such action or decision by the secretary of public safety pursuant to the contested case provisions of chapter 1-26. The decision of the secretary of public safety may be appealed to the circuit court in the manner provided by chapter 1-26.

34-29B-13. Injunction for violation of chapter. The state fire marshal may commence actions for injunction for violation of this chapter or regulations promulgated pursuant to this chapter.

34-29B-14. Violation of fire marshal's order as misdemeanor--Evidence. It is a Class 1 misdemeanor for any person to permit or maintain any situation, circumstances, or condition which is in violation of any order of the state fire marshal. It is also a Class 1 misdemeanor to disobey any provision of the order or to fail to comply with any written variation authorized by the state fire marshal. Proof of such unlawful condition or proof of the failure to obey such order is prima facie evidence that such act is that of the owner or other person in control of the premises.

34-29B-15. Application for alternative--Documentation--Records--Deadline for denial of application. Each application for an alternative shall be filed with the state fire marshal and shall be accompanied by such evidence, letters, statements, results of tests, or other supporting information as may be required to justify the request. The state fire marshal shall keep a record of actions of such applications and a signed copy of the state fire marshal's decision shall be provided for the applicant. The state fire marshal may grant or deny any properly filed application; but if the state fire marshal does not deny an application within twenty days of its filing, the alternative shall be deemed granted.

34-29B-16. Notice of violation. Except as provided in this chapter, if the state fire marshal finds violations of this chapter, a written notice shall be issued to confirm such findings. The notice shall set forth a time limit for compliance, which limit shall be correlated to the degree of hazard created by the violation and availability of means of abatement.

34-29B-17. Service of order or notice. Any order or notice issued pursuant to this chapter may be served upon the owner, operator, occupant, or other person responsible for the condition or violation, either by personal service, first class mail, registered or certified mail. For unattended or abandoned locations, a copy of the order or notice shall be posted on the premises in a conspicuous place at or near the entrance to the premises and the order or notice shall be mailed by registered or certified mail, with return receipt requested, to the last known address for the owner, occupant, or both, or any person shown by public record to have a possessory interest.

34-29B-18. Revocation, suspension, or denial of approval. The state fire marshal may revoke, suspend, or deny the granting of any approval required by this chapter or regulation, for noncompliance with the provisions of such or failure to meet the provisions of this chapter.

34-29B-25. Standards of municipal regulations--More stringent requirements not prohibited. Regulations adopted by municipalities under the provisions of chapter 9-33 shall be at least equal to the standards adopted by the State Fire Marshal. Any municipality may by reference adopt such standards from time to time and enforce such regulations as their own. Nothing in this chapter or rules adopted pursuant to this chapter prohibits any political subdivision of the state from making and enforcing more stringent requirements than those set forth in this chapter or rules adopted pursuant to this chapter.

34-29B-26. Effect of chapter on local zoning ordinances--Regulation of flammable or combustible liquid bulk plants. Nothing in this chapter or in the rules pursuant thereto may be construed to affect the power of any local government, if so authorized by law, to regulate the use of land by zoning, and any municipality in which there is no comprehensive zoning ordinance in effect may prohibit the installation of flammable or combustible liquid bulk plants within areas which are predominantly residential and areas used predominantly for retail mercantile purposes.

34-29B-27. Municipal regulation of tank vehicles--Load and capacity of vehicles. Nothing in this chapter may be construed to mean that a governing body of a first or second class municipality may not regulate movement of tank vehicles to specific routes and streets. Load and capacity of tank vehicles shall be governed by the uniform motor vehicle and traffic laws of South Dakota and local regulation as therein authorized.

FIRE SAFETY RULES

61:15:01:01. Conformity with national standards. The standards of fire safety set forth in the **International Building Code**, 2003 edition; **International Fire Code**, 2003 edition; and the **International Mechanical Code**, 2003 edition; and referenced standards, except as modified, amended, or deleted in this chapter, are the rules of the South Dakota Department of Public Safety authorized by SDCL [34-29B-2](#).

61:15:01:02. Deletions from the International Fire Code. Sections 103 to 105.7.12, inclusive, sections 903.2.5, 903.2.7, and 906.1 number 1 are deleted from the **International Fire Code**, 2003 edition.

61:15:01:03. Deletions from the International Building Code. Sections 101.4 to 101.4.7, inclusive, 103 to 105.7, inclusive, 106.5 to 112.3, inclusive, 903.2.5, and 903.2.7 are deleted from the **International Building Code**, 2003 edition.

61:15:01:04. Amendments to the International Fire Code. Amendments to the **International Fire Code**, 2003 edition, are as follows:

- (1) Where the International Fire Code references NFPA 10, "Standards for Portable Fire Extinguishers," the 2002 edition is the standard to be used;
- (2) Where the International Fire Code references NFPA 72, "National Fire Alarm Code," the 2002 edition is the standard to be used;
- (3) Where International Fire Code references NFPA 407, "Aircraft Fuel Servicing," the 2001 edition is the standard to be used;
- (4) Where the International Fire Code references NFPA 52, "Compressed Natural Gas (CNG) Vehicular Fuel Systems," the 2002 edition is the standard to be used;
- (5) Where the International Fire Code references NFPA 86, "Ovens and Furnaces," the 2003 edition is the standard to be used;
- (6) Where the International Fire Code references NFPA 50, "Bulk Oxygen Systems at Consumer Sites," the 2004 edition is the standard to be used;
- (7) Where the International Fire Code references NFPA 11, "Low Expansion Foam," the 2002 edition is the standard to be used;
- (8) Where the International Fire Code references NFPA 15, "Water Spray Fixed Systems," the 2001 edition is the standard to be used;
- (9) Where the International Fire Code references NFPA 704, "Identification of the Fire Hazards of Materials," the 2001 edition is the standard to be used;
- (10) Where the International Fire Code references NFPA 385, "Tank Vehicles for Flammable and Combustible Liquids," the 2000 edition is the standard to be used; and
- (11) Where the International Fire Code references NFPA 58, "Storage and Handling of Liquefied Petroleum Gases," the 2004 edition is the standard to be used.

61:15:01:05. Amendments to the International Building Code. Amendments to the **International Building Code**, 2003 edition, are as follows:

- (1) Where the International Building Code references NFPA 13, "Installation of Sprinkler Systems," the 2002 edition is the standard to be used;
- (2) Where the International Building Code references NFPA 14, "Standard for the Installation of Standpipe, Private Hydrant, and Hose Systems," the 2003 edition is the standard to be used; and
- (3) Where the International Building Code references NFPA 13R, "Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height," the 2002 edition is the standard to be used.

61:15:01:06. Fire safety for flammable liquids and liquefied petroleum gases. The manufacture, transportation, storage, and use of combustible and flammable liquids and liquefied petroleum gases shall conform to the requirements specified in chapter 61:15:03 and in Chapter 34 and Chapter 38 of the **International Fire Code**, 2003 edition.

61:15:01:07. Deletions from Uniform Mechanical Code. Repealed.

61:15:01:08. Residential flammable liquid storage tanks and liquefied petroleum gas installations. Residential combustible liquid storage tanks and liquefied petroleum gas installations of less than 2,000 gallons water capacity are not required to submit plans for review by the Department of Public Safety. This does not relieve the installer from meeting the requirements for installation as specified by the **International Mechanical Code**, 2003 edition, the **International Fire Code**, 2003 edition, or more stringent local requirements.

61:15:01:09. Exits. The maintenance of exits and escapes in buildings or structures covered by this chapter and used or intended to be used for human occupancy shall be in accordance with this chapter and the provisions of Chapter 10 of the **International Fire Code**, 2003 edition.

61:15:01:10. Exit requirements for existing buildings other than high-rise buildings. Every floor above the first story used for human occupancy in existing buildings other than high-rise buildings shall have access to at least two separate exits, one of which may be an exterior fire escape complying with this chapter. In all occupancies, except day care, second stories with an occupant load of 10 or less may have one exit. All required stairs shall have a minimum run of 9 inches and a maximum rise of 8 inches and shall have a minimum width of 30 inches exclusive of handrails. Every stairway shall have at least one handrail. A landing having a minimum 30-inch run in the direction of travel shall be provided at each point of access to the stairway. Fire escape stairs shall be of noncombustible construction.

61:15:01:11. Existing corridor construction. An existing corridor of a building or structure covered by this chapter may be considered as a complying corridor if, in the opinion of the fire official, a distinct hazard to life is not found to exist. If a distinct hazard to life is found to exist, any corridor serving as an exit for an occupant load for 30 or more shall have walls and ceilings of not less than one-hour fire-resistive construction. Any existing wall surfaced with wood lath and plaster in good condition or 1/2-inch gypsum wall board or any opening with fixed wired glass set in steel frames is permitted for a corridor wall and ceiling if approved. Any door opening into such a corridor shall be protected with 20-minute fire assemblies or solid wood doors not less than 1 3/4 inches thick. Each door shall be self-closing or automatic closing by smoke detection. Each transom and opening other than a door from a corridor to a room shall comply with section 1016 of the **International Building Code**, 2003 edition, or shall be covered with a minimum of 1/2-inch gypsum wall board or equivalent material on the room side. Any existing corridor wall, ceiling, and opening protection not in compliance with the requirements of this section may be continued if the building is protected with an automatic sprinkler system throughout.

61:15:01:12. Existing fire escapes. Existing fire escapes which, in the opinion of the fire official, comply with the intent of this chapter, may be used as one of the required exits. Fire escapes shall comply with the following:

(1) All openings in the exterior wall below and within 10 feet of a fire escape stair serving a building over two stories high shall be protected by a self-closing fire assembly having a 3/4-hour fire protection rating;

(2) Egress from the building shall be by a clear opening of not less than 20 inches wide, 24 inches high, and 5.7 square feet in area. The bottom of the opening shall be not more than 44 inches above the floor of the building or balcony;

(3) Fire escape stairways and balconies shall support the dead load plus a live load of not less than 100 pounds per square foot and shall be provided with a top and intermediate handrail on each side. The pitch of the stairway may not exceed 60 degrees with a minimum width of 18 inches. Treads may not be less than 4 inches wide and the rise between treads may not exceed 10 inches. All stair and balcony railings shall support a horizontal force of not less than 50 pounds per lineal foot of railing;

(4) Balconies shall be not less than 44 inches wide with no floor openings other than the stairway opening greater than 5/8 inch wide. Stairway openings in such balconies shall be at least 22 inches by 44 inches. The balustrade of each balcony shall be not less than 36 inches high with not more than 9 inches between balusters;

(5) Fire escapes shall extend to the roof or provide an approved gooseneck ladder between the top floor landing and the roof when serving buildings four or more stories high having roofs with less than 4:12 slope. Fire escape ladders shall be designed and connected to the building to withstand a horizontal force of 100 pounds per lineal foot; each rung shall support a concentrated load of 500 pounds placed anywhere on the rung. All ladders shall be at least 15 inches wide, located within 12 inches of the building, and shall be placed flat to the face of the building. Ladder rungs shall be 3/4 inch in diameter and shall be located 12 inches on center. Openings for roof access ladders through cornices and similar projections shall have minimum dimensions of 30 inches by 33 inches;

(6) The lowest balcony shall be not more than 18 feet from the ground. Fire escapes shall extend to the ground or be provided with counterbalanced stairs reaching to the ground;

(7) Fire escapes may not take the place of stairways required by the codes under which the building was constructed;

(8) Fire escapes shall be kept clear and unobstructed at all times and maintained in good working order.

61:15:01:13. The abatement of unsafe buildings or structures. The abatement of unsafe buildings or structures covered by this chapter shall be in accordance with Section 115 of the **International Building Code**, 2003 edition. Local jurisdictions may make inspections and take actions as required to enforce the provisions of this section. The Department of Public Safety may provide technical assistance as required to enforce the provisions of this section.

61:15:01:14. Smoke detectors required. Each sleeping room of a lodging establishment, as defined in subdivision (7) of SDCL [34-18-1](#), shall contain smoke detectors installed in accordance with the manufacturer's instructions. In new construction, smoke detectors shall receive their primary power from the building wiring and shall be equipped with a battery backup. The detector shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection. Smoke detectors may be solely battery-operated when installed in existing lodging establishments.

61:15:01:15. Smoke detectors required in multifamily residences. Each family living unit of a multifamily residence which houses six or more families shall contain at least one smoke detector installed in accordance with the manufacturer's instructions and this section. Smoke detectors shall be located on the ceiling or wall of the main room or sleeping room in each dwelling unit of an existing multifamily residence. Smoke detectors shall receive their primary power from the building wiring. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection. If a violation of this section is found, a written notice confirming such findings shall be issued and served upon the owner, operator, or other person responsible for the violation. Any notice or order issued pursuant to this section shall require compliance within 30 days of the date of notice. If situations or conditions exist that make it impractical to comply with this section within 30 days, battery powered smoke detectors may be utilized upon approval by the authority having jurisdiction for a period not to exceed 18 months.

61:15:01:16. Municipal conformity. Nothing in this chapter prohibits municipalities or local fire officials from adopting alternative requirements for **International Fire Code**, 2003 edition, chapters 11, 12, 15 to 18, inclusive, 20, 23, and 28, provided that the alternative requirement meets the intent and spirit of the code.

61:15:01:17. Egress requirements. Exits for new hotels, motels, multifamily residences which house six or more families, and congregate residences shall be as specified in chapter 10 of the **International Building Code**, 2003 edition. Access to and egress from buildings required to be accessible to persons with disabilities shall be provided as specified in chapter 11 of the **International Building Code**, 2003 edition. Basements in dwelling units which have a finished habitable room and every sleeping room below the fourth story must have at least one operable window or door approved for emergency escape and rescue which opens directly onto a public street, public alley, yard, or exit court. The unit must provide a full clear opening and must be operable from the inside without the use of separate tools. All escape or rescue windows must have a minimum net clear open area of 5.7 square feet which is at least 24 inches high and at least 20 inches wide. If windows are provided as a means of escape or rescue, they must have a finished sill height not more than 48 inches above the floor. Bars, grills, grates, or similar devices may be installed on an emergency escape or rescue window or on doors only if such devices are equipped with release mechanisms which are openable from the inside without the use of a key and without special knowledge or effort and the building is equipped with smoke detectors installed in accordance with section 1025.4 of the **International Building Code**, 2003 edition, and § 61:15:01:15.

61:15:01:18. Required draft stops. Draft stops shall be installed in the attics, mansards, overhangs, false fronts set out from walls, and similar concealed spaces of new multifamily residences housing six or more families, hotels, motels, and congregate residences. Such draft stops must meet the requirements outlined in section 717.4.2 of the **International Building Code**, 2003 edition.

61:15:01:19. Automatic sprinkler system requirements. An automatic sprinkler system shall be installed throughout new multifamily residences four or more stories high, in new multifamily residences having more than 26 feet from any grade to the highest occupied floor level or having greater than 20,000 square feet in total floor area, and in new hotels and motels three or more stories high or containing 20 or more guest rooms. Residential or quick-response standard sprinklers must be used in the dwelling units and guest room portions of the building.

FLAMMABLE GASES AND LIQUIDS RULES

61:15:03:01. Blueprints of installations required. Except as provided in § 61:15:03:06, duplicate copies of drawings or blueprints for any construction or installation for the storage, handling, or use of flammable or combustible liquids or liquefied petroleum gas shall be submitted to the Department of Public Safety for approval. The drawings or blueprints must be drawn to scale and include structural, electrical, plumbing, and mechanical features. Approval is required before any construction or installation may be undertaken in aboveground storage for retail sales, bulk plants, service stations, and processing plants. Within 20 days after receipt of the application with drawings or blueprints, a representative of the Department of Public Safety shall examine them. If the drawings or blueprints conform to the applicable requirements of this chapter, the representative shall approve the application, retain one copy for the files, and return the other copy to the applicant, plus any additional copies submitted by the applicant. If the drawings or blueprints do not conform to the applicable requirements, the representative shall notify the applicant

61:15:03:02. Information required on blueprint. Blueprints or drawings shall show the name of the person, firm, or corporation proposing the installation, the location of the installation, and the adjacent streets or highways. .

61:15:03:03. Drawing requirements for aboveground storage. For aboveground storage, the drawings shall show:

- (1) The capacity of each tank;
- (2) The dimensions of each tank;
- (3) The class of liquid to be stored in each tank;
- (4) The type of tank supports;
- (5) The clearances between tanks;
- (6) The type of venting and pressure relief used and the combined capacity of all venting and pressure relief valves on each tank;
- (7) The tank control valves;
- (8) The location and type of pump;
- (9) Electrical schematic;
- (10) Vehicle access;
- (11) Method of storage and dispensing; and
- (12) Distances from tanks and dispensers to property lines and buildings, fire appliances, collision barriers, and emergency controls.

61:15:03:04. Drawing requirements for underground storage. For underground systems, the drawings shall show the location and capacity of each tank, and the class of liquid to be stored in the tanks, together with the clearances and requirements and the location of fill, gauge, and vent pipes and other openings.

61:15:03:05. Detail required on drawings or blueprints. Drawings or blueprints for installations for storage, handling, or use of flammable liquids within buildings or enclosures at any establishment or occupancy covered by this section shall show in detail whether applicable requirements are met.

61:15:03:06. Role of local jurisdictions. Drawings or blueprints of a proposed installation shall be first submitted to the applicable local official or governing body. The local official or governing body shall require compliance with the applicable requirements of this chapter and may require compliance with more stringent local requirements. Local approval must be in writing and signed by the head of the local governing body. After local approval has been given, the applicant shall send the approval letter, plans, and specifications to the Department of Public Safety for approval pursuant to § 61:15:03:01.

61:15:03:07. Reasons for denial. In addition to failure to meet the applicable provisions provided by statute, failure to meet the applicable provisions in this article, failure to obtain any variance required by statute, or failure to comply with local regulations, the Department of Public Safety may deny approval for use of aboveground storage tanks at retail locations if there is a false statement or misrepresentation of a material fact in the request or plans on which the request was based or the proposed location is in an area where undue hazard to the safety of the general public can be expected..

61:15:03:08. Delegation of authority to grant uncontested variance. If no petition in opposition is filed pursuant to § 61:15:03:09, the Department of Public Safety may grant a variance pursuant to SDCL [34-38-39](#). A variance may be granted no sooner than 20 days after publication of the variance notice. Petitions filed in support of a variance may not result in a hearing; however, the petitioner will receive notice if a hearing is to be held.

61:15:03:09. Deadline to file petitions. Petitions filed to oppose or support a variance request must be served by first class mail or personally delivered to the Department of Public Safety and the variance applicant. Mail must be postmarked or personal delivery must occur at least 10 days before the published date of the hearing. If the 10th day is a Saturday, Sunday, or legal holiday, petitions must be postmarked or personally delivered to the Department of Public Safety by the next working day.

DAYCARE RULES

61:15:05:01. Definition of day care center. A day care center is any facility as defined in SDCL [26-6-14\(3\)](#) providing group care and supervision for 21 or more children.

61:15:05:02. Responsibility of day care proprietors. A day care proprietor intending to alter, remodel, or build new facilities to be used for day care purposes shall inform the Office of the State Fire Marshal and the Department of Social Services of that intention.

61:15:05:03. Approval of proposed construction required. A day care proprietor may not begin proposed construction until the plans and specifications have been reviewed locally and by a representative of the Department of Public Safety and approved in writing. Drawings shall be drawn to scale and shall clearly show plot plan sections, elevations, structural details, floor plan, electrical, mechanical, and any other details the department may require.

61:15:05:04. Construction requirements. New construction of and any addition to a day care center, remodeling of an existing day care center, and remodeling of any existing building to be used as a day care center must be in accordance with this chapter.

61:15:05:05. Exit requirements. A day care center or each level of a day care center where the occupant load exceeds ten must have at least two remote exits that meet the requirements set forth in Chapter 10 of the **International Building Code**, 2003 edition. The two required exits must discharge directly to the outside and must swing in the direction of exit travel when the occupant load exceeds 50. Exiting for any existing day care center must conform to the provisions of Chapter 10 of the **International Fire Code**, 2003 edition. Exit illumination and signs must be installed and maintained in accordance with Sections 1006 and 1011 of the **International Building Code**, 2003 edition.

61:15:05:06. Floor covering requirements. Interior floor finish materials in a day care center must be a Class 2 material in required exits, exit passageways, or corridors providing exit access. A Class 2 material is any material having a minimum critical radiant flux of 0.22 watts per square centimeter as established by the procedures specified in NFPA-253, "Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source," 2000. If an automatic sprinkler system is installed, floor covering materials need not be classified. Floor covering requirements apply to new construction and to replacing of floor covering in existing facilities.

61:15:05:07. Interior finish. Interior wall and ceiling finish for both new construction and any existing day care facility must comply with Chapter 8 of the **International Building Code**, 2003 edition.

61:15:05:08. Fire alarm requirements. Each day care center shall be provided with a fire alarm system. Initiation of the fire alarm system shall be by manual pull stations and by operation of any required smoke detector. Smoke detectors shall be placed in each stairwell and in the corridors of all floors containing the day care center. Detectors shall also be installed in lounges, recreation areas, and sleeping rooms. Smoke detectors shall be installed in accordance with the manufacturer's recommendation and NFPA 72, "National Fire Alarm Code," 2002 edition. The alarm shall sound an audible alarm both inside and outside of the center. The requirements of this section apply to both a new and an existing day care facility. The time limit for an existing facility to comply with the requirements of this section shall be determined by the inspector based upon the financial situation of the center and the existing level of life safety. No time limit may exceed 18 months.

61:15:05:09. Automatic fire sprinkler requirements. An automatic sprinkler system must be installed when a basement utilized as a day care center exceeds 1,500 square feet in area. An automatic sprinkler system must be installed throughout the entire structure when a day care use occurs on a second story. An automatic sprinkler system must be installed in each day care center offering 24-hour care. The operation of any required automatic sprinkler system must automatically activate the fire alarm system. This section applies to new construction and any change of use.

61:15:05:10. Portable fire extinguishers. Portable fire extinguishers must be provided on each level of a day care center and near food processing equipment. Fire extinguishers must be a minimum of a 2A rating, as identified on the extinguisher label, and may serve no more than 2,000 square feet with a travel distance of not greater than 75 feet to an extinguisher.

61:15:05:11. Boiler and furnace room protection. In new and existing day care facilities, each room containing a boiler, central heating plant, or hot-water supply boiler must be separated from the rest of the building by not less than a one-hour fire-resistive occupancy separation if the equipment exceeds 400,000 Btu per hour input.

61:15:05:12. Latches and locks. In both new and existing facilities, each closet door latch must be capable of being opened by children from the inside. Each bathroom door lock must be designed to permit opening of the locked door from the outside in an emergency. The opening device must be readily accessible to the staff.

61:15:05:13. Electrical receptacle protection. Special protective covers for all electrical receptacles not being used must be installed in all areas occupied by children. Self-closing outlet covers that cover outlet holes automatically upon removal of appliance prongs must be provided for new facilities.

61:15:05:14. Space heaters. Any heating equipment in spaces occupied by children must be provided with noncombustible partitions, screens, or other means to protect the children from hot surfaces and open flame. If solid partitions are used, provisions must be made to assure adequate air for combustion and ventilation for the heating equipment. Unvented fuel-fired room heaters are not permitted.

61:15:05:15. Basement requirements. Usable space under the first story of a day care center must be enclosed. If the construction of the floor joists separating the basement from the first story consists of metal or wood, the framing must be protected on the basement side as required for one-hour, fire-resistive construction. Doors must cut off the basement from the main level and must be self-closing. They must be of noncombustible construction or solid wood core, not less than 1 3/4 inches in thickness. Basements used exclusively for service of the building may have one exit. Storage rooms, laundry rooms, maintenance offices, and similar uses are not considered as providing service to the building. If the basement is used for any purpose, such as storage, two means of exiting from the basement are required.

GROUP FAMILY DAYCARE RULES

61:15:06:01. Definition of group family day care home. A group family day care home is any facility as defined in SDCL [26-6-14\(6\)](#) that provides group care and supervision for 13 to 20 children.

61:15:06:02. Responsibility of group family day care proprietors. A group family day care proprietor intending to alter, remodel, or build new facilities to be used for group family day care purposes shall inform the Office of the State Fire Marshal and the Department of Social Services of that intention.

61:15:06:03. Approval of proposed construction required. A group family day care proprietor may not begin proposed construction until the plans and specifications have been reviewed locally and by a representative of the Department of Public Safety and approved in writing. Drawings must be drawn to scale and must clearly show plot plan sections, elevations, structural details, floor plan, electrical, mechanical, and any other details the department may require.

61:15:06:04. Construction requirements. New construction of and any addition to a group family day care home, remodeling of any existing group family day care home, and remodeling of any existing building for use as a group family day care home must be in accordance with this chapter.

61:15:06:05. Exit requirements. Egress for both a new and an existing group family day care facility must conform to the following requirements. The first level of a group family day care home is required to have at least two exits that meet the requirements set forth in Chapter 10 of the **International Building Code**, 2003 edition. These two required exits must discharge directly to the outside. If spaces on the floor above the floor of exit discharge are used by clients, at least two remote exits are required on that floor. At least one means of egress must be an exit discharging directly to the outside. In an existing facility, the exit discharging directly to the outside may be an exit complying with the requirements of § 61:15:01:12. If clients are located in a story below the level of exit discharge, at least two separated exits are required in that story. At least one means of egress must be an exit discharging directly to the outside, and the vertical travel to ground level may not exceed eight feet. Any stairway to the story above must be cut off by a fire barrier containing a door of noncombustible construction or a solid core wood door not less than 1 3/4 inches thick. This door must be equipped with a self-closing device. Exit illumination and exit signs must be provided and maintained in accordance with Chapter 10 of the **International Building Code**, 2003 edition.

61:15:06:06. Floor covering requirements. Interior floor finish materials in a group family day care home must be a Class 2 material in required exits, exit passageways, or corridors providing exit access. A Class 2 material is any material having a minimum critical radiant flux of 0.22 watts per square centimeter as established by the procedures specified in NFPA-253, "Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source," 2000 edition. If an automatic sprinkler system is installed, floor covering materials need not be classified. Floor covering requirements apply to new construction and to replacing of floor covering in an existing facility.

61:15:06:07. Interior finish. Interior wall and ceiling finish for both a new and an existing group family day care home must comply with Chapter 8 of the **International Building Code**, 2003 edition.

61:15:06:08. Fire detection requirements. Every group family day care home must be provided with a residential fire detection system comprised of interconnected multiple-station smoke detectors. Smoke detectors must be interconnected so an alarm from any one of the interconnected detectors sounds the alarm in all detectors. Smoke detectors must be installed in every sleeping room, corridor, stairwell, and activity room in accordance with the manufacturer's recommendations and NFPA 72, "National Fire Alarm Code," 2002 edition. Required smoke detectors must receive their primary power from the building wiring. Wiring must be permanent and without a disconnecting switch other than those required for overcurrent protection. The requirements of this section apply to both a new and an existing facility. The time limit for an existing facility to comply shall be determined by the inspector based upon the financial situation of the facility and the existing level of life safety. No time limit may exceed 18 months.

61:15:06:09. Portable fire extinguishers. Portable fire extinguishers must be provided on each level and near food processing equipment. Fire extinguishers must be a minimum of a 2A rating, as identified on the extinguisher label, and may serve no more than 2,000 square feet with a travel distance of not greater than 75 feet to an extinguisher.

61:15:06:10. Electrical receptacle protection. Special protective covers for all electrical receptacles not being used must be installed in all areas occupied by children. Self-closing outlet covers that cover outlet holes automatically upon removal of appliance prongs must be provided for new facilities.

61:15:06:11. Latches and locks. In both new and existing facilities, each closet door latch must be capable of being opened by children from the inside. Each bathroom door lock must be designed to permit opening of the locked door from the outside in an emergency. The opening device must be readily accessible to the staff.

61:15:06:12. Heating equipment protection. In new and existing group family day care homes, each room containing a boiler, central heating plant, or hot-water supply boiler must be separated from the rest of the building by not less than a one-hour fire-resistive occupancy separation if the equipment exceeds 400,000 Btu per hour input. Any heating equipment in spaces occupied by children must be provided with noncombustible partitions, screens, or other means to protect the children from hot surfaces and open flame. If solid partitions are used, provisions must be made to assure adequate air for combustion and ventilation for the heating equipment. Unvented fuel-fired room heaters are not permitted.

EXCHANGE OF FIRE LOSS INFORMATION

34-32A-1. Definition of terms. Terms used in this chapter, unless the context plainly otherwise requires, mean:

- (1) "Action," includes nonaction or the failure to take action.
- (2) "Authorized agency or authorized agencies," the Department of Public Safety, the attorney general, the state's attorney in the county where the fire occurred, and, solely for the purposes of § 34-32A-3, the federal bureau of investigation or any other federal agency and United States attorney's office when authorized or charged with investigation or prosecution of the fire in question;
- (3) "Deemed important," material within the sole discretion of the authorized agency which is requested by that authorized agency; and
- (4) "Relevant," information having any tendency to make the existence of any fact that is of consequence to the investigation or determination of the issue more probable or less probable than it would be without the evidence.

34-32A-2. Notice and information to governmental agency when insurer believes fire loss other than accidental. If an insurance company has reason to believe that a fire loss in which it has an interest may be of other than accidental cause, then, for the purpose of notification and for having such fire loss investigated, the company shall, in writing, notify an authorized agency and provide it with all relevant information from the company's inquiry into the fire loss. If an insurance company provides any authorized agency with notice of a fire loss, it shall be deemed sufficient notice for the purpose of this chapter. Nothing in this section shall abrogate or impair the rights or powers created under § 34-32A-3.

34-32A-3. Information required of insurer by governmental agency investigating fire loss. Any authorized agency may, in writing, require the insurance company at interest to release to the requesting agency all relevant information or evidence deemed important to the authorized agency which the company may have in its possession relating to the fire loss in question. Relevant information may include, without limitation:

- (1) Pertinent insurance policy information relevant to the fire loss under investigation and any application for such policy;
- (2) Policy premium payment records which are available;
- (3) History of previous claims made by the insured; and
- (4) Material relating to the investigation of the loss, including statements of any person, proof of loss, and any other evidence relevant to the investigation.

34-32A-4. Exchange of information between governmental agencies. The authorized agency provided with information pursuant to §§ 34-32A-2 and 34-32A-3 and in furtherance of its own purposes, may release or provide such information to any other authorized agency.

34-32A-5. Insurer obtaining information from governmental agency. Any insurance company providing information to an authorized agency pursuant to § 34-32A-2 or 34-32A-3 shall have the right to request and obtain relevant information within thirty days of its request to an authorized agency.

34-32A-6. Notice to policy holder of request for information. Notwithstanding the provisions of §§ 34-32A-2 to 34-32A-5, inclusive, the authorized agency shall notify, in writing, the policy holder of the request for information.

34-32A-7. Immunity from liability of insurer or governmental agency releasing information. Any insurance company, person acting in its behalf, or authorized agency who releases information, whether oral or written, pursuant to §§ 34-32A-2 to 34-32A-5, inclusive, shall be immune from civil liability or criminal prosecution. "Immune," as used in this section, means that neither a civil action nor a criminal prosecution may arise from any action taken pursuant to §§ 34-32A-2 to 34-32A-8, inclusive, if actual malice, bad faith or situations involving compounding on the part of the insurance company or authorized agency against the insured is not present.

34-32A-8. Information received held in confidence--Requiring testimony when insurer is party to litigation. Any authorized agency or insurance company who receives any information furnished pursuant to this chapter shall hold the information in confidence until such time as its release is required pursuant to a criminal or civil proceeding. Any authorized agency, or its personnel, may be required to testify in any litigation in which the insurance company at interest is named as a party..

34-32A-9. Arson control laws unimpaired--Concurrent jurisdiction. This chapter shall not be construed to affect or repeal any statute of this state or any ordinance of any municipality relating to fire prevention or control of arson, but the jurisdiction of the Department of Public Safety and of the attorney general as to fire prevention and the control of arson in a municipality shall be concurrent with that of the municipal and county authorities.

34-32A-10. Rights and powers unimpaired. With the exception of § 34-32A-7, all other provisions of this chapter shall not be construed to impair any existing statutory or common law rights or powers.

RANGE AND FOREST FIRE PREVENTION

34-35-8. Throwing match or burning object from vehicle as misdemeanor. Any person who shall drop or throw from any vehicle or other means of transportation any burning match, cigarette, cigar, ashes of pipe, or other burning substance of any kind is guilty of a Class 2 misdemeanor.

34-35-9. Negligently allowing fire to spread as misdemeanor--Failure to extinguish fire-- Interference with control efforts. Every person who negligently kindles or causes to be kindled, fire in any woods, brush, fields, marshes, or prairies and leaves it unquenched or who negligently or without full precaution to prevent fire spreading permits it to spread beyond his control so as to endanger the property of another, whether such fire is kindled upon his own land or not, or who, finding any uncontrolled fire burning, fails to give immediate warning and to make reasonable attempt to quench it, or who at any fire at any place is guilty of any disobedience to the lawful orders of any public official or fireman attempting to control said fire, or who interferes with any such officer in any such case or refuses to assist in controlling said fire, is guilty of a Class 1 misdemeanor.

34-35-10. Burning off land or other flammable material without firebreak and considering weather a misdemeanor. It is a Class 1 misdemeanor to set or cause to be set on fire any woods, marsh, prairie, grass, or stubble land or any other inflammable material at any time of the year without first having in place a natural or manmade firebreak and without giving due caution to the prevailing and forecasted weather conditions.

34-35-12. Civil liability for fire. A person who sets a fire as provided in § 34-35-10 is liable for civil damages for all injury and fire suppression and extinguishment costs caused by the fire. For the purposes of this section, person includes but is not limited to public utilities, railroads, and private utilities.

34-35-15. Black Hills Forest Fire Protection District--Area included. To protect the timber on areas subject to unusual fire dangers, there is hereby created the Black Hills Forest Fire Protection District, consisting of all that part of the state described by metes and bounds as follows: Commencing at a point on the Wyoming-South Dakota state line at the junction of Interstate Highway 90 at the state line; thence east and southeast along Interstate Highway 90 via Rapid City to the intersection of U.S. Highway 16B; thence south and southwest along U.S. Highway 16B to the intersection of State Highway 79; thence south along State Highway 79 to the intersection of U.S. Highway 18; thence south along U.S. Highway 18 to the Cheyenne River; thence west and northwest along the Cheyenne River to the Wyoming-South Dakota state line; thence north along said state line to the place of beginning. The Black Hills Forest Fire Protection District does not include any area within the limits of any municipality.

34-35-16. Permit required for open fire in Black Hills district--Violation as misdemeanor-- Liability for civil damages. The starting of an open fire within the Black Hills forest fire protection district by a person or a group of persons is prohibited unless a permit to do so is first obtained from the secretary of agriculture or his designee or from the United States forest service supervisor. An open fire as used in this section and § 34-35-17 is any fire to burn slash, brush, grass, stubble, debris, rubbish, or other inflammable material not enclosed in a stove, sparkproof incinerator, or an established fireplace approved or constructed by public agencies in designated recreation areas. A violation of this section is a Class 1 misdemeanor. Any person who violates this section is liable for civil damages for all injuries caused by the fire.

FIRE ALARMS

34-35A-3. Interference with alarm system as felony. A person who intentionally interferes with or impairs or damages any public fire alarm system, apparatus, wire, or associated equipment, thereby rendering such equipment inoperative, is guilty of a Class 5 felony.

34-35A-4. Tampering with alarm system as misdemeanor--Repeat offenses. Any person who intentionally injures, defaces, or tampers with any fire alarm system in any manner not punishable under § 34-35A-3 is guilty of a Class 2 misdemeanor. A subsequent violation of this section is a Class 1 misdemeanor.

FIREWORKS

34-37-1. Definition of terms. Terms used in this chapter mean:

- (1) "Consumer fireworks ," fireworks designed primarily to produce visible effects by combustion, that must comply with the construction, chemical composition, and labeling regulations promulgated by the U.S. Consumer Product Safety Commission (CFR Title 16--Commercial Practices, Part 1507), effective January 1, 1998 and that are enumerated in the American Pyrotechnics Association Inc., Standard 87-1, April, 1993 edition;
- (2) "Retailer," includes every person engaged in the business of making sales of fireworks at retail;
- (3) "Retail sale ," the sale of fireworks to any person not licensed to sell fireworks or for any purpose other than for resale;
- (4) "Sale ," any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration;
- (5) "Wholesaler ," any person engaged in the business of making sales of fireworks to retailers for resale to consumers.

34-37-2. License required for sale of fireworks--Application--Fee--Duration--Display. No person may sell, hold for sale, or offer for sale, as wholesaler or retailer any fireworks in this state unless such person has first obtained a license as a wholesaler or retailer. Application for a license as wholesaler or retailer shall be made to the Department of Public Safety on forms to be prescribed by it. Each application shall be accompanied by the required fee, which shall be five hundred dollars for a wholesaler's license, and twenty-five dollars for a retailer's license. Each application for a license as a retailer in any year must be received by the department no later than the fifteenth day of June of that year. Any application received after that date shall be denied by the department and returned to the applicant together with any application fee submitted. The license expires on the fourteenth day of June annually and is renewable annually. The license shall at all times be displayed at the place of business of the holder thereof. The funds received under the provisions of this section shall be deposited in the general fund.

34-37-2.1. Minimum age for sale or dispensing of fireworks. No person under the age of eighteen years shall be licensed under this chapter and no licensee shall employ or permit any individual under the age of eighteen to sell, dispense, or offer for sale, within the State of South Dakota any permissible fireworks enumerated in this chapter.

34-37-2.2. Special retail licenses for sales to nonresidents--Copy of law and map provided with sale. In addition to licenses available in § 34-37-2, two special retail licenses may be obtained for sales to out-of-state residents. The first is a sixty-six day license from the first day of May through the fifth day of July with a required fee of one thousand dollars. The second option is a fifty-seven day license from the sixth day of July through the thirty-first day of August with a required fee of one thousand dollars. A copy of the South Dakota law which prohibits the discharge of fireworks and a map of the Black Hills Forest Fire Protection District shall be provided with every sale of fireworks under a license granted pursuant to this section, except for sales occurring from the twenty-seventh day of June through the fifth day of July.

34-37-3. Prohibited firecrackers--Manufacture or use as misdemeanor. Any person who manufactures, uses, or disposes to another, with or without consideration, so as to endanger the safety of others, any consumer fireworks made wholly or in part of dynamite, nitroglycerin, or giant powder, is guilty of a Class 1 misdemeanor.

34-37-4. Possession, sale, or use of unauthorized fireworks unlawful. Except as provided in § 34-37-12, no person shall possess, sell, offer for sale, bring into this state, or discharge any pyrotechnics commonly known as fireworks, other than permissible fireworks.

34-37-5. Permissible fireworks enumerated and described. Permissible fireworks are consumer fireworks as enumerated in Chapter 3 of the American Pyrotechnics Association Inc., Standard 87-1, 1993 edition and that comply with labeling regulations promulgated by the U.S. Consumer Product Safety Commission (CFR Title 16--Commercial Practices Part 1507), effective January 1, 1998.

34-37-6. Examination of fireworks by department. Before any additional permissible fireworks not enumerated in § 34-37-5 may be sold, held for sale, or offered for sale in this state, they shall be submitted to the Department of Public Safety for examination to determine their compliance with CFR Title 16, Commercial Practices, Part 1507, effective January 1, 1998, and the American Pyrotechnics Association Inc., Standard 87-1, 1993.

34-37-7. Exemptions from chapter. Nothing in this chapter shall be construed as applying to toy paper caps containing not more than twenty-five hundredths of a grain of explosive composition per cap, and to the manufacture, storage, sale, or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, nor applying to the military or navy forces of the United States or of this state, or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, or theatrical, or athletic events.

34-37-8. Importation by unlicensed persons prohibited--Retailer to purchase from licensed wholesaler. No person who is not licensed as a wholesaler or retailer shall bring any fireworks into this state. No retailer shall sell any fireworks which have not been purchased from a wholesaler licensed under the provisions of this chapter.

34-37-9. Purchase invoices held by licensee--Inspection by department. Any person licensed under the provisions of this chapter shall comply with the provisions of § 10-45-45. Each invoice for fireworks purchased is subject to inspection by the Department of Public Safety. The invoice shall show the license number of the wholesaler from which the purchase was made..

34-37-10. Period and times during which retail sales permitted. No person, firm, or corporation may offer fireworks for sale to individuals at retail before the twenty-seventh day of June and after the fifth day of July. Any person obtaining the special sixty-six day or the special fifty-seven day retail licenses may sell fireworks to out-of-state residents for the periods of time designated in § 34-37-2.2. Retail sales are not permitted after twelve a.m. or prior to seven a.m. from the twenty-seventh day of June through the fifth day of July.

34-37-10.1. Sale from vehicle prohibited. No retailer shall sell fireworks from any motor vehicle..

34-37-10.2. Exits from structures where fireworks sold. If the general public occupies a structure where fireworks are being displayed or sold, two or more approved exits shall be provided. If the general public does not occupy a structure that displays or sells fireworks, one or more approved exits shall be provided.

34-37-10.3. "No smoking" signs where fireworks sold. Signs must be prominently posted on all displays of fireworks offered for sale at retail, which shall read in red letters not less than three inches in height, "NO SMOKING WITHIN TWENTY-FIVE FEET."

34-37-10.4. Minimum distance for igniting of fireworks. In all buildings or structures wherein fireworks are being offered for sale the licensee shall have a sign prominently posted stating that no fireworks can be ignited or discharged within one hundred fifty feet of the licensee's premises.

34-37-10.5. Open flame prohibited where fireworks sold--Fire extinguisher required. No licensee may have on the premises any device, apparatus, receptacle, or burner from which an open flame is emitted. Each licensee shall in the conduct of the business of selling fireworks keep and maintain upon the premises a fire extinguisher bearing a rated capacity of at least 2-A.

34-37-10.6. Approved exit. For the purposes of this chapter, an approved exit is a continuous and unobstructed means of egress to a public way. Exit doors shall be of the pivoted or side-hinged swinging type and shall swing in the direction of exit travel. Exit doors shall be openable from the inside without the use of a key or any special knowledge or effort.

34-37-11. Sale or use prohibited in forests, parks and other specified areas--Exception-- Violation as misdemeanor. No person may sell or cause to be sold, discharge, or cause to be discharged, any pyrotechnics of any description or any consumer fireworks within the exterior boundaries of the Black Hills Forest Fire Protection District, and no person may discharge or cause to be discharged any pyrotechnics or consumer fireworks within a zone that extends three hundred feet beyond the exterior boundaries of the Black Hills Forest Fire Protection District in this state. No person may sell or cause to be sold, discharge, or cause to be discharged, any pyrotechnics of any description or any consumer fireworks within any national forest, national park, state forest, or any land owned or leased by the Department of Game, Fish and Parks. However, the Department of Game, Fish and Parks may, by written authorization, permit the discharge of pyrotechnics or consumer fireworks, pyrotechnic displays, sales, or exhibits on land owned or leased by the department unless otherwise prohibited by statute. Any violation of this section which occurs on any land owned or leased by the Department of Game, Fish and Parks is a Class 2 misdemeanor. Any subsequent violation of this Section is a Class 1 misdemeanor.

34-37-12. Exportation of fireworks from state. Nothing in this chapter shall prohibit licensed wholesalers or manufacturers from storing, selling, shipping, or otherwise transporting, permissible fireworks to any person or entity outside of the State of South Dakota if the sale and transportation are consistent with 18 U.S.C. § 836, effective on January 1, 1983. The delivery of such fireworks shall only be made by a properly certified motor carrier as specified in chapter 49-28 or by licensed fireworks wholesalers or manufacturers or fireworks permit holders in vehicles owned or leased by them.

34-37-12.1. Evidence of delivery outside of state. Written evidence of the delivery of permissible fireworks to any person or entity outside of the State of South Dakota shall be retained by the wholesaler. Acceptable evidence includes the fireworks license or permit number and address, a bill of lading, or delivery receipt for delivery by a properly certified motor carrier if purchaser is unlicensed.

34-37-13. Public display of fireworks. Nothing in this chapter prohibits the use of public display of fireworks. However, any person, association, organization, municipality, county, firm, partnership, or corporation, before making such public display of fireworks shall secure a written permit from the governing board of the municipality, township, or county where the public display is to be fired, and shall have purchased fireworks for the display from a licensed wholesaler under this chapter. Any public display shall comply with the National Fire Protection Association Standard 1123, 1995 edition.

34-37-14. Violation of chapter as misdemeanor. Except where a punishment is specifically provided, a violation of the provisions of this chapter is a Class 1 misdemeanor.

34-37-15. Subsequent conviction as ground for revocation or suspension of license. If a person is found guilty of violating any of the provisions of this chapter a subsequent time, such violation may constitute cause for revocation or suspension of the license held by that person and for refusal to renew license upon expiration thereof.

34-37-16. Possession of unauthorized fireworks unlawful--Seizure and destruction. No person shall possess any fireworks, other than those enumerated in § 34-37-5. If any person shall have in his possession any fireworks in violation of said section, a warrant may be issued for the seizure of such fireworks, and such fireworks shall be safely kept to be used as evidence. Upon conviction of the offender, the fireworks shall be destroyed, but if the offender is discharged, the fireworks shall be returned to the person in whose possession they were found, provided, however, that nothing in this chapter shall apply to the transportation of fireworks by regulated carriers.

34-37-16.1. Period during which discharge of fireworks permitted--Violation as misdemeanor. Except as otherwise provided in this chapter, it is unlawful for a person to discharge fireworks in this state after the fifth day of July or prior to the twenty-seventh day of June. A violation of this section is a Class 2 misdemeanor.

34-37-17. Enforcement by department and law enforcement officers. The Department of Public Safety, together with all law enforcement officers of the state and its political subdivisions, shall be charged with the enforcement of the provisions of this chapter.

34-37-18. Record forms prescribed by secretary. Records required under provisions of this chapter shall be kept on forms prescribed by the secretary of public safety.

34-37-19. County regulation of fireworks--Use of South Dakota grassland fire danger index. Any county may, by resolution, regulate or prohibit the use of fireworks outside the boundaries of any municipality in those areas where the fire danger, as determined by use of the South Dakota grassland fire danger index published by the National Weather Service, has reached the extreme category in that county during the period from June twentieth to July second, inclusive. During such period, the county's action is suspended if the grassland fire danger index falls below the very high category and shall again become effective if the grassland fire danger index reaches the extreme category.

34-37-20. Use of explosives or fireworks for protection of sunflower crops. Nothing in this chapter prohibits the purchase, sale, or use of explosives, pyrotechnics, or fireworks at any time for the purposes provided in § 34-36-7.

INSPECTION WARRANTS

34-43-1. Definition of inspection warrant. An inspection warrant is a written order in the name of a county or municipality signed by a magistrate judge or circuit court judge, directed to a county or municipal official, commanding him to conduct any inspection required or authorized by state or local law or regulation relating to building, housing, fire, safety, plumbing, electrical, health, or zoning.

34-43-2. Affidavit in support of warrant--Contents--Notice where prior consent refused. An inspection warrant may be issued only upon cause, supported by an affidavit, particularly describing the place, dwelling, structure, or premises to be inspected and the purpose for which the inspection is to be made. The agency shall demonstrate that the inspection is one that it is authorized to make, that the request is specific and that the information sought is consistent with the objective of the inspection. In addition, the affidavit shall contain either a statement that consent to inspect has been sought and refused or facts or circumstances reasonably justifying the failure to seek such consent. If prior consent has been sought and refused, notice that a warrant has been issued shall be given at least twenty-four hours before the warrant is executed, unless the magistrate judge or circuit court judge finds that immediate execution is reasonably necessary in the circumstances shown.

34-43-3. Cause to issue warrant--Legislative or administrative standards satisfied or condition of nonconformity. Cause shall exist if either reasonable legislative or administrative standards for conducting a routine or area inspection are satisfied with respect to the particular place, dwelling, structure, or premises, or there is reason to believe that a condition of nonconformity exists with respect to the particular place, dwelling, structure, or premises.

34-43-4. Examination of applicant and other witnesses by magistrate or judge. Before issuing an inspection warrant, the magistrate judge or circuit court judge may examine on oath the applicant and any other witness and shall satisfy himself of the existence of grounds for granting such application

34-43-5. Issuance of warrant by magistrate or judge--Description of premises, purpose, and limitations of inspection. If the magistrate judge or circuit court judge is satisfied that cause for the inspection exists, he shall issue the warrant particularly describing each place, dwelling, structure, or premises to be inspected and designating on the warrant the purpose and limitations of the inspection.

34-43-6. Duration of effectiveness of warrant--Extension or renewal--Return to magistrate or judge--Void after expiration. An inspection warrant is effective for the time specified therein, but for no more than fourteen days, unless extended or renewed by the magistrate judge or circuit court judge who signed and issued the original warrant, upon satisfying himself that such extension or renewal is in the public interest. Such inspection warrant shall be executed and returned to the magistrate judge or circuit court judge by whom it was issued within the time specified in the warrant or within the extended or renewed time. After the expiration of such time, the warrant, unless executed, is void.

34-43-7. Prohibited inspections--Exceptions. An inspection made pursuant to a warrant authorized by §§ 34-43-1 to 34-43-8, inclusive, may not be made between six p.m. of any day and eight a.m. of the succeeding day, nor in the absence of an owner or occupant of the particular place, dwelling, structure, or premises unless specifically authorized by the magistrate judge or circuit court judge upon a showing that such authority is reasonably necessary to effectuate the purpose of the regulation being enforced. An inspection may not be made by means of forcible entry, except if expressly authorized by the magistrate judge or circuit court judge if the facts are sufficient to create a reasonable suspicion of a violation of a state or local law or regulation relating to building, housing, fire, safety, plumbing, electrical, health, or zoning, which, if such violation existed, would be a direct threat to health or safety, and if the facts establish that reasonable attempts to serve a previous warrant have been unsuccessful.

34-43-8. Refusal to permit inspection by warrant as misdemeanor. Any person who willfully refuses to permit an inspection lawfully authorized by a warrant issued pursuant to §§ 34-43-1 to 34-43-8, inclusive, is guilty of a Class 2 misdemeanor.