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South Dakota Laws and Rules for Engineers

by

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South Dakota Laws and Rules for Engineers
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Course Outline:

South Dakota Codified Laws
SDCL 36-18A
Administrative Rules of South Dakota
ARSD 20:38
State Board
Practice of Professional Engineering
Responsible Charge
Prime Professional
Engineering Disciplines
Professional Conduct and Ethics
Sign and Seal Requirements
Continuing Education
Helpful References
Examination

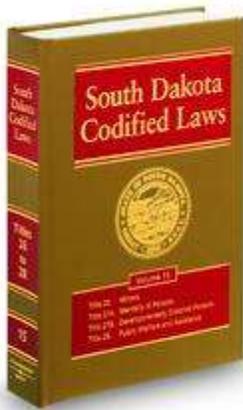
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South Dakota Codified Laws

State laws (called statutes) are enacted by the South Dakota Legislature, which is a bicameral body made up of the Senate and House of Representatives. When a bill has passed, it is transmitted to the Governor for signature and then becomes law. If the Governor vetoes the bill, the Legislature must override a veto with a two-thirds majority vote in both the Senate and House of Representatives for the bill to become law.



Passed bills (acts) from each legislative session are published in Session Laws. Next, the laws (called statutes) are added to the *South Dakota Codified Laws* (SDCL) in the appropriate locations with numbering, formatting, and removal of replaced or repealed statutes. Annotations are also added such as notes and references, with the resulting publication often called the *South Dakota Codified Laws Annotated*.

The South Dakota Codified Laws is divided into dozens of titles. Laws with relevance to engineering are in Title 36, Chapter 18A (cited as SDCL 36-18A). The organization is as follows:

South Dakota Codified Laws

- Title 36: Professions and Occupations
 - Chapter 18A: Technical Professions

See the “Helpful Resources” section for the website addresses with the latest laws, rules, and Board information. The laws and rules in this course are current as of October 2024.



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SDCL 36-18A

The law dedicated to the practice of engineering is SDCL 36-18A. It contains general requirements for the following professions:

- Engineers
- Architects
- Land Surveyors
- Landscape Architects
- Petroleum Release Services

SDCL 36-18A gives authority to the *South Dakota Board of Technical Professions* (Board) to enact the laws and manage licensing. The following is the contents of SDCL 36-18A, with **bold** sections being of particular importance for practicing professional engineers.

SDCL 36-18A: Technical Professions

- 36-18A-1 Definition of terms.**
- 36-18A-1.1 Inactive licensee defined.
- 36-18A-2 Practice of architecture defined.
- 36-18A-3 Practice of engineering, design coordination, and engineering studies defined.**
- 36-18A-4 Practice of land surveying defined.
- 36-18A-5 Practice of landscape architecture defined.
- 36-18A-6 Practice of petroleum release assessment defined.
- 36-18A-7 Practice of petroleum release remediation defined.
- 36-18A-8 License required to practice professions enumerated in chapter.**
- 36-18A-9 Certain persons exempt from provisions of chapter.**
- 36-18A-10 Building consisting of more than one type of occupancy--Limitations for each type.**
- 36-18A-11 Design-build services by contractor.**
- 36-18A-12 Certain services performed by authorized petroleum release business exempt.
- 36-18A-13 Incidental cross-practice by architects and engineers.**
- 36-18A-14 Board of Technical Professions created--Certificate of appointment--Oath of office--Number and terms of members--Composition.
- 36-18A-15 Board member qualifications.



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- 36-18A-16 Immunity of board members--Attorney general to represent board.
- 36-18A-17 Removal of board member--Filling of vacancies.
- 36-18A-18 Board to elect officers--Meetings--Quorum--Inclusion in blanket bond.
- 36-18A-19 Accounting for moneys received--Disbursement of funds--Vouchers and warrants.
- 36-18A-20 Employment of counsel and assistance in enforcement.
- 36-18A-21 Employment of executive director and staff--Offices.
- 36-18A-22 Board to promulgate rules--Scope of rules--Existing rules remain in effect.
- 36-18A-23 Board continued within Department of Labor and Regulation--Retains functions of previous commission.
- 36-18A-24 Record and report policy.
- 36-18A-25 Engineering intern--Qualifications.
- 36-18A-26 Professional engineer licensure qualifications--Board to establish criteria.
- 36-18A-27 Architect licensure qualifications--Certification by National Council of Architectural Registration Boards in lieu of qualifications--Board to establish criteria.
- 36-18A-28 Land surveying intern qualifications--Board to establish criteria.
- 36-18A-29 Land surveyor qualifications--Board to establish criteria.
- 36-18A-30 Landscape architect qualifications--Certification by Council of Landscape Architectural Registration Boards in lieu of qualifications--Board to establish criteria.
- 36-18A-31 Petroleum release assessor or remediator--Qualifications--Board to establish criteria.
- 36-18A-32 Oral interview--Failure to provide information as grounds for disciplinary action--Interpretation of experience and education.
- 36-18A-33 Examination requirements--Fees.
- 36-18A-34 Notice of results--Reexamination--Fees.
- 36-18A-35 Licensure--Comity consideration--Promulgation of Rules--Fee.
- 36-18A-36 License issued to successful applicant.
- 36-18A-37 Display of license in place of business--Replacement license.**
- 36-18A-38 Practice permitted recipient of license--Use of titles--License as evidence.**
- 36-18A-39 Expiration and biennial renewal of licenses--Continuing professional education.**
- 36-18A-40 Failure to complete continuing professional development requirements as grounds for nonrenewal--Inactive or retired status.**



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- 36-18A-41 Advance notice by board of expiration of license, professional development requirements, and fees.
- 36-18A-42 Reinstatement of expired license or request for inactive status--Time limits--Requirements for reinstatement.
- 36-18A-43 Request for inactive or retired status--Fee.
- 36-18A-44 Seal of licensees--Contents--Signature--Certain persons prohibited from using seal.**
- 36-18A-45 Seal, signature, and date as certification that work done by licensee--Documents on which seal required.**
- 36-18A-45.1 Digital signatures.**
- 36-18A-46 Construction administration services to be provided by architect or engineer.**
- 36-18A-46.1 Completion of work--Successor licensee--Nonprofessional services.**
- 36-18A-47 Firm or office to have appropriately licensed person in charge.**
- 36-18A-48 Business entity must obtain certificate of authorization--Responsibility for acts of individuals.
- 36-18A-49 Application for certificate of authorization--Contents.
- 36-18A-50 Issuance of certificate of authorization--Certificate not transferable--Exempt business.
- 36-18A-51 Business to report changes in information supplied on application--Time limit.
- 36-18A-52 General provisions applicable to business entities.
- 36-18A-53 Employee not responsible for corporate violations--Exception.**
- 36-18A-54 Board inquiries and investigation of violations--Report and prosecution.
- 36-18A-55 Board authorized to administer oaths, subpoena witnesses--Court order to compel compliance.
- 36-18A-56 Proof of injury not necessary for board action on certain violations.
- 36-18A-57 Disciplinary remedies available to board. 282-bqt
- 36-18A-58 Additional remedies.
- 36-18A-59 Proceedings for revocation or suspension of license.
- 36-18A-60 Findings and actions of board subject to appeal.
- 36-18A-61 Civil remedies available to board.
- 36-18A-62 Service of cease and desist order.
- 36-18A-63 Report issued after hearing--Further order.
- 36-18A-64 Order becomes final if no hearing requested--Other remedies not precluded.
- 36-18A-65 Prohibited acts--Violation as Class 2 misdemeanor.**



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- 36-18A-66 Prohibited acts--Repeated violation as Class 1 misdemeanor.**
- 36-18A-67 Fee to reimburse board for costs.
- 36-18A-68 Limitation on liability of licensed professionals--Exception.**
- 36-18A-69 Contracts in violation unenforceable.**
- 36-18A-70 Plans, specifications, plats and submissions in violation unacceptable.**
- 36-18A-71 Register of deeds not to record land survey documents which do not contain signature, seal and date.
- 36-18A-72 Board to establish procedures and standards for certification of environmental technical services.
- 36-18A-73 Certification required for environmental technical services--Violation as misdemeanor.
- 36-18A-74 Continuation of licenses and enrollments issued under chapter 36-18.
- 36-18A-75 Certain activities of golf course designers authorized--"Golf course designer" defined.**
- 36-18A-76 Limitation on liability of architects and engineers related to services provided upon request of official following disaster or catastrophic event.**

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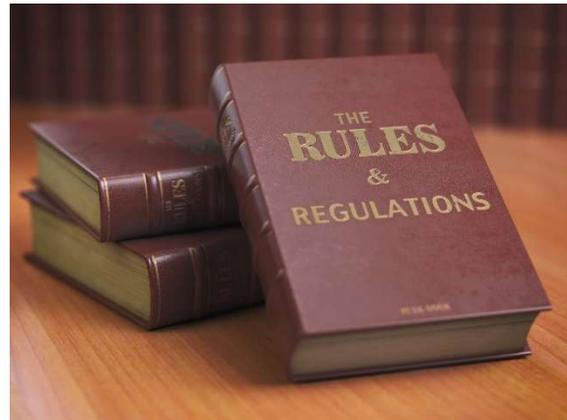
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Administrative Rules of South Dakota



State laws are often high-level and lack details required for implementation. The South Dakota Legislature delegates state agencies to manage the implementation of laws and to create rules and regulations that complement the laws. The compilation of agency regulations is called the *Administrative Rules of South Dakota* or *South Dakota Administrative Rules* and can be cited as ARSD, SDAR, Admin. Rules of S.D., or S.D. Admin. Rules. The regulations are enforceable just like state statutes.

The ARSD is grouped by dozens of different state agencies (departments, divisions, districts, boards, councils, authorities, and commissions). Professional engineering is under the agency “Labor and Regulation”, and covered under article 20:38. This is cited as ARSD 20:38, and known as the “Board Rules”.



The organization is as follows:

ARSD

- Agency: Labor and Regulation
 - Article 20:38: Board of Technical Professions



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ARSD 20:38

The following are the contents of ARSD 20:38, also known as the Board Rules. Sections in **bold** are of particular importance for practicing professional engineers.

ARSD 20:38 - BOARD OF TECHNICAL PROFESSIONS

- 20:38:13 Applications.
- 20:38:14 Education.
- 20:38:17 Examinations.
- 20:38:18 Licenses.**
- 20:38:19 Fees.
- 20:38:22 Required services.**
- 20:38:23 Continuing professional development.**
- 20:38:27 General rules affecting board.
- 20:38:28 Licensure and enrollment.
- 20:38:29 Applications.
- 20:38:30 Education requirements.
- 20:38:31 Experience requirements.
- 20:38:32 Examination requirements.
- 20:38:33 Fees and penalties.
- 20:38:34 Comity licensure requirements.
- 20:38:35 Continuing professional development.**
- 20:38:36 Rules of professional conduct.**
- 20:38:37 Other requirements of licensees.**
- 20:38:38 Fire protection systems.**
- 20:38:39 Disciplinary proceedings.

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State Board

The state agency for professional engineering is the *South Dakota Board of Technical Professions* (SDBTP), herein referred to as the Board. The Board is under the Department of Labor and Regulation (DLR).



The Board oversees over 4,000 professional engineers. The Board has the authority to manage and further regulate professional engineering. The Board can make modifications to ARSD 20:38.

South Dakota Board of Technical Professions

Board Website

The board website <<https://ndpelsboard.org/>> contains the following relevant topic pages:

- Board Information
- Technical Professions
- Licensed Registry
- Complaint Procedures
- Laws & Rules
- Forms & Applications
- Comity/Reciprocity
- Business Licenses
- Professional Development Hours
- Fees
- License Renewal
- Frequently Asked Questions
- Contact Us
- Useful Links

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Practice of Professional Engineering

The following is a copy-paste of the relevant laws and rules that help define the practice of professional engineering:

SDCL 36-18A

36-18A-1. Definition of terms.

Terms used in this chapter mean:

- (1) "Alteration," for the purpose of determining exemptions, any remodeling, renovation, or reconstruction to a building which changes the use, occupancy classification, or occupant load, or the exiting, structural, mechanical, or electrical systems of a building as defined by the building code;
- (2) "Architect," any person licensed in good standing and legally authorized to practice architecture in this state;
- (3) "Architectural intern," any person who has successfully completed an accredited education program in architecture acceptable to the board and is enrolled in the intern development program administered by the National Council of Architectural Registration Boards;
- (4) "Board," the Board of Technical Professions;
- (5) "Building," any structure used or intended to support or shelter any occupancy;
- (6) "Building or floor area," the sum of the areas of all of the floors of a building, including basements, mezzanine, and intermediate tiers, and penthouses of headroom height, measured from the exterior faces of exterior walls or from the center line of the wall separating buildings. The building area does not include such features as pipe trenches, exterior terraces or steps, chimneys, vent shafts, courts, and roof overhangs. The floor area of enlargements shall be added to the existing building area. A fire or area separation wall is not an exterior wall for the purposes of this definition;
- (7) "Building official," the officer or other designated authority charged with the administration and enforcement of the adopted code;
- (8) "Business entity," any corporation, partnership, limited liability corporation, limited liability partnership, or sole proprietorship that practices or offers to practice engineering, architecture, land surveying, landscape architecture, petroleum release assessment, or petroleum release remediation services to the public through its licensed personnel who are either employees, officers, directors, partners, members,



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managers, or owners and that have been issued a certificate of authorization by the board;

(9) "Construction administration," the interpretation of drawings and specifications, the establishment of standards of acceptable workmanship, and the site observation of construction, by a licensed professional, for the purpose of determining whether the work is in general accordance with the construction contract documents. Shop drawing review, coordination of a construction project among the owner, architect, engineer, contractor, and subcontractors, and inspection of construction by contractors, subcontractors, owner's agents, building officials, or other unlicensed professionals does not constitute construction administration;

(10) "Corrective action," an action taken to minimize, contain, eliminate, remediate, mitigate, or clean up a petroleum release, excluding removal of a petroleum tank of less than one thousand one hundred gallons;

(11) "Design-build," a delivery approach in which a project team of design professionals and builders perform design and construction services under contract with a client;

(12) "Engineer," a person who is qualified to practice engineering by reason of special knowledge and use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience;

(13) "Engineering intern" or "engineer-in-training" or "EI" or "EIT," a person enrolled by the board as an engineering intern and who has successfully passed the fundamentals of engineering examination;

(14) "Enlargement," for the purpose of determining exemptions, is any addition to a building which changes the use, occupancy classification, or occupant load, or the exiting, structural, mechanical, or electrical systems of a building as defined by the building code adopted by the board;

(15) "Land surveyor," a person licensed in good standing and legally authorized to practice land surveying in this state;

(16) "Land surveying intern" or "land surveyor-in-training" or "LSI" or "LSIT," a person enrolled by the board as a land surveying intern who has successfully passed the fundamentals of land surveying examination;

(17) "Landscape architect," a person licensed in good standing and legally authorized to practice landscape architecture in this state;

(18) "Landscape architectural intern," a person who has successfully completed an accredited education program in landscape architecture adopted by the board;



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- (19) "License," a certificate indicating authority to practice and use titles within a profession;
- (20) "Licensee," a person or business entity whose license is in good standing;
- (21) "Petroleum," gasoline, alcohol-blended fuels, diesel fuels, aviation gasoline, jet fuel, fuel oil, kerosene, burner oil, naphtha, lubricating oils, motor oil, automatic transmission fluid, waste oil, or alcohols that have been denatured with gasoline and stored to be used as blended fuel-grade ethanol;
- (22) "Petroleum release assessor," a person licensed in good standing and legally authorized to practice petroleum release assessment in this state;
- (23) "Petroleum release remediator," a person licensed in good standing and legally authorized to practice petroleum release remediation in this state;
- (24) "Professional engineer," a person licensed in good standing and legally authorized to practice engineering in this state;
- (25) "Release," the spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a reportable quantity of petroleum;
- (26) "Remedial investigation," an action to identify the corrective action to be taken to protect the public health, safety, and environment and to contain a release of petroleum into the environment;
- (27) "Responsible charge," the immediate and responsible direction by a licensed professional who has exercised personal direction, guidance, and control over the design, preparation of documents, construction administration, and other professional services and has exercised professional judgment in all matters relating to those services;
- (28) "Retired licensee," a person who is retired and is no longer licensed to practice that person's profession may use the appropriate honorific title or combination of titles of Architect, Retired; Professional Engineer, Retired; Land Surveyor, Retired; or Landscape Architect, Retired;
- (29) "Site assessment," an action to identify the existence, source, nature, and extent of a release and the extent of any danger to public health, safety, and welfare of the public or environment;
- (30) "Site observation," the visual observation of a construction project for general compliance with submitted plans and specifications at significant stages and at project completion.

36-18A-1.1. Inactive licensee defined.

For the purposes of this chapter, the term, inactive licensee, means a licensee who ceases to practice or offer to practice in the licensee's profession and who does not



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wish to renew but would like his or her files to be kept active for possible reinstatement. An active licensee may be granted inactive status. No inactive licensee may practice or offer to practice professional services in South Dakota unless otherwise exempted in this chapter. Any inactive licensee is exempt from the continuing education requirements.

36-18A-3. Practice of engineering, design coordination, and engineering studies defined.

For the purposes of this chapter, the term, practice of engineering, means the practice or offering to practice of any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work. Such service or work includes consultation; investigation; evaluation; planning; design; and design coordination of engineering works and systems; planning the use of land and water; land-use studies; teaching of advanced engineering design subjects; performing engineering studies; and the review or observation of construction for the purpose to determine whether the work is in general accordance with drawings, specifications, and other technical submissions. Any such service or work, either public or private, may be in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products, or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property, and including such other professional services as are necessary to the planning, progress, and completion of any engineering services.

For the purposes of this section, the term, design coordination, includes the review and coordination of those technical submissions prepared by others, including consulting engineers, architects, landscape architects, land surveyors, and other professionals working under the direction of the engineer. The term, engineering studies, includes all activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easement exhibits relating to land boundaries, and the dependent or independent surveys or resurveys of the public land survey system.



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A person is construed to practice or offer to practice engineering if the person practices any branch of the profession of engineering, if the person, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself or herself to be a professional engineer, or if the person through the use of some other title implies that the person is a professional engineer or that the person is licensed under these provisions, or if the person holds himself or herself out as able to perform or does perform any engineering service or work or any other service designated by the practitioner which is recognized as engineering.

36-18A-8. License required to practice professions enumerated in chapter.

Any person or business entity practicing or offering to practice architecture, engineering, land surveying, landscape architecture, or petroleum release assessment or remediation shall submit evidence of qualifications to the board and be licensed in accordance with the provisions of this chapter. No person or business entity may practice or offer to practice any of these professions, or to use in connection with that person's or business entity's name or otherwise assume, use, or advertise any title or description that may falsely convey the impression that the person is duly licensed under the provisions of this chapter unless the person is so licensed.

36-18A-9. Certain persons exempt from provisions of chapter.

This chapter does not apply to:

- (1) Any person engaged in military engineering while rendering service exclusively for any of the armed forces of the United States or this state;
- (2) Any person engaged in the practice of engineering, architecture, landscape architecture, or land surveying in the employ of the United States government but only while exclusively engaged as a United States government employee on such government project or projects which lie within federally-owned land;
- (3) Any person engaged in the practice of engineering, architecture, landscape architecture, or land surveying in the employ of the state and any of its political subdivisions but only while rendering service exclusively to such employer. Any building project resulting from the practice of engineering, architecture, landscape architecture, or land surveying under this subdivision is subject to the size limitation imposed under the exemptions in subdivision (8) of this section;
- (4) Any employee who prepares technical submissions or administers construction contracts for a person or organization lawfully engaged in the practice of engineering, architecture, landscape architecture, or land surveying, if the employee



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is under the direct supervision of a registered professional engineer, architect, landscape architect, or land surveyor;

(5) Any full-time employee of a corporation, partnership, firm, business entity, or public utility while exclusively doing work for the corporation, partnership, firm, business entity, or public utility, if the work performed is in connection with the property, products, and services utilized by the employer and not for any corporation, partnership, firm, or business entity practicing or offering to practice architectural, engineering, landscape architecture, or land surveying services to the public. The provisions of this subdivision do not apply to any building or structure if the primary use is occupancy by the public;

(6) Any person engaged in the preparation of plans and specifications for the erection, enlargement, or alteration of any of the following buildings:

- (a) Any dwelling for a single family, and any outbuilding in connection therewith, such as a barn or private garage;
- (b) Any two, three, or four family dwelling;
- (c) Any five to sixteen family dwelling, inclusive, located in a governmental subdivision of this state which provides a detailed building code review of building projects by a building inspection department which is a governmental member of the International Code Council (ICC) or an ICC certified plans examiner;
- (d) Any farm or ranch building or accessory thereto except any building regularly used for public purposes; or
- (e) Any temporary building or shed used exclusively for construction purposes, not exceeding two stories in height, and not used for living quarters;

(7) Any person who prepares detailed or shop plans required to be furnished by a contractor to a registered professional engineer or architect, and any construction superintendent supervising the execution of work designed by an architect or professional engineer registered in accordance with this chapter;

(8) Any person engaged in the preparation of plans and specifications for the new construction, the enlargement or the alteration of any of the following buildings:

- (a) Any building occupied as a hospital, hotel, motel, restaurant, library, medical office, nursing facility, assisted living facility, jail, retirement home, or mortuary, if the gross square footage of the new construction, the enlargement, or the alteration is four thousand square feet or less;
- (b) Any building occupied as an auditorium, church, school, or theater if the gross square footage of the new construction, the enlargement, or the alteration is five thousand square feet or less;



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- (c) Any building occupied as a bowling alley, office, shopping center, bank, fire station, service station, or store if the gross square footage of the new construction, the enlargement, or the alteration is seven thousand square feet or less;
- (d) Any building occupied as an industrial plant or public garage if the gross square footage of the new construction, the enlargement, or the alteration is eleven thousand square feet or less;
- (e) Any building occupied as a warehouse if the gross square footage of the new construction, the enlargement, or the alteration is twenty thousand square feet or less;
- (f) Any building with an occupancy other than those listed in subsections (a) to (e), inclusive, of this subdivision if the gross square footage of the new construction, the enlargement, or the alteration is four thousand square feet or less; or
- (g) Any preengineered or predesigned building, or any preengineered or predesigned building with a predesigned system, designed for the intended use of that building, including building structure, electrical, plumbing, and mechanical systems, if the buildings and systems are supplied directly, or indirectly, by a company engaged in the business of designing and supply such buildings and systems and if the company has in its employ one or more engineers or architects licensed in South Dakota, who prepare all designs for such buildings and systems.

No person exempted may use the title of professional engineer, architect, landscape architect, or land surveyor, or any other word, words, letters, or signs in connection with the person's name that may falsely convey the impression that the person is a licensed professional engineer, architect, landscape architect, or land surveyor.

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**36-18A-10. Building consisting of more than one type of occupancy--
Limitations for each type.**

For the purposes of subdivision 36-18A-9(8) of this chapter, if a building consists of more than one type of occupancy, each portion of the building shall conform to the limitations established by that subdivision for each type of occupancy. The area of the building shall be such that the sum of the ratios of the actual area for each separate occupancy divided by the total allowable area allowed by that subdivision for each separate occupancy does not exceed one.



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36-18A-11. Design-build services by contractor.

This chapter does not prohibit a contractor from offering to provide or from providing design-build services if the architectural and engineering services offered or provided in connection with the design-build services are rendered by an architect or professional engineer licensed in accordance with this chapter.

36-18A-37. Display of license in place of business--Replacement license.

The license shall be displayed in a conspicuous place in the licensee's principal office, place of business, or place of employment within the state. A duplicate license to replace a lost, destroyed, or mutilated license shall be issued upon payment of a fee established by the board pursuant to chapter 1-26.

36-18A-38. Practice permitted recipient of license--Use of titles--License as evidence.

The recipient of a license issued under this chapter may practice engineering, architecture, land surveying, landscape architecture, petroleum release assessment, or petroleum release remediation and use the appropriate title professional engineer, architect, land surveyor, landscape architect, petroleum release assessor, or petroleum release remediator. A licensee may use a title either with or without prefixing the word, licensed or registered. No licensee may practice a profession or use a title unless the license specifically permits such practice and usage. An unrevoked and unexpired license issued as provided in this chapter is presumptive evidence in all courts and places that the person named is legally licensed.

36-18A-43. Request for inactive or retired status--Fee.

Any licensed person may request that the person's license be placed on inactive or retired status. A fee, not to exceed two hundred dollars, to place files on inactive or retired status shall be determined by the board in rules promulgated pursuant to chapter 1-26. Failure to render any fees required for inactive or retired status shall result in the automatic termination of inactive or retired status. The request for files to be placed on inactive or retired status may be denied by the board. No person may practice or offer to practice while that person's files are inactive or retired.

36-18A-46. Construction administration services to be provided by architect or engineer.

No person other than an architect may provide construction administration services on an architecture portion of a project that is not exempt pursuant to § 36-18A-2. No



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person other than a professional engineer may provide construction administration services on an engineering portion of a project that is not exempt pursuant to § 36-18A-3. The architect or professional engineer of record, or another designated architect or professional engineer without conflict of interest, shall provide a written report of observed deficiencies or variations from the submitted plans and specifications to the building official, owner, and builder before project completion. The board may promulgate rules pursuant to chapter 1-26 to establish construction administration services criteria including coordinating and prime professional criteria for persons licensed by the board.

**36-18A-48. Business entity must obtain certificate of authorization--
Responsibility for acts of individuals.**

Any business entity that desires to practice engineering, architecture, land surveying, landscape architecture, or petroleum release assessment or remediation in this state shall register with the board by making application for a certificate of authorization. A business entity is responsible for the conduct or acts of its agents, employees, officers, partners, members, or managers in respect to any engineering, architecture, land surveying, landscape architecture, petroleum release assessment, or petroleum release remediation services performed or to be executed in this state. No person is relieved of the responsibility for that person's conduct or acts performed by reason of that person's employment by or relationship with a business entity. A licensee who renders occasional, part-time, or consulting services to or for a business entity may not be designated as the person in responsible charge for the professional activities of the business entity.

36-18A-68. Limitation on liability of licensed professionals--Exception.

A professional engineer, architect, land surveyor, landscape architect, petroleum release assessor, or petroleum release remediator is not liable for the safety of persons or property on or about a construction project site, or for the construction techniques, procedures, sequences, and schedules, or for the conduct, action, errors, or omissions of any construction contractor, subcontractor, construction manager, or material supplier, their agents or employees, unless that person assumes responsibility therefor by contract or by that person's actual conduct. This section does not relieve a professional engineer, architect, land surveyor, landscape architect, petroleum release assessor, or petroleum release remediator from liability for that person's negligence in design work.



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36-18A-69. Contracts in violation unenforceable.

Any contract, written or oral, for engineering, architectural, land surveying, landscape architectural, petroleum release assessment, or petroleum release remediation services made by any person in violation of any provision of this chapter is unenforceable as to such services. It is a complete defense to any action to enforce payment for any services, if the party contracting for services proves that the person rendering or offering to render services was not at the time such services were offered or rendered, legally authorized to contract for such services.

36-18A-70. Plans, specifications, plats and submissions in violation unacceptable.

No public officer or employee, as defined in subdivisions 22-1-2(37) and (39), charged with the authority or responsibility of approving or accepting plans, specifications, plats, or any other technical submissions, may accept or approve such plans, specifications, plats, or technical submissions which have been prepared in violation of this chapter.

The building official shall require the owner to engage and designate an architect or professional engineer who shall act as the architect or professional engineer of record on projects that are not exempt. If the circumstances require, the owner may designate a substitute architect or professional engineer of record who shall perform all of the duties required of the original architect or professional engineer of record. The building official shall be notified in writing by the owner if the architect or professional engineer of record is changed or is unable to continue to perform the duties. The architect or professional engineer of record is responsible for reviewing and coordinating all submittal documents prepared by others, including deferred submittal items, for compatibility with the design of the building. A building permit issued with respect to technical submissions which do not conform with the requirements of this chapter are invalid.

36-18A-75. Certain activities of golf course designers authorized--"Golf course designer" defined.

Nothing in this chapter prohibits any person from engaging in the practice of, or offering to engage in practice as, a golf course designer. For purposes of this section, the term, golf course designer, means a person who performs professional services such as consultation, investigation, reconnaissance, research, design,



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preparation of drawings and specifications, and responsible supervision, if the predominant purpose of such service is the design of a golf course.

36-18A-76. Limitation on liability of architects and engineers related to services provided upon request of official following disaster or catastrophic event.

No architect or engineer may be held liable for personal injury, wrongful death, property damage, or other loss related to any architectural, structural, electrical, mechanical, or other professional design service provided by the architect or engineer, voluntarily or without compensation, at the request or approval of a national, state, or local public official in response to a declared national, state, or local emergency caused by a tornado, fire, explosion, collapse or other similar disaster or catastrophic event. This section applies to services rendered within ninety days following the end of the declared emergency, disaster, or catastrophic event unless extended by executive order of the Governor. Limited liability under this section does not apply if the injury, death, or damage is the result of gross negligence or willful or wanton misconduct. For the purposes of this section compensation does not include reimbursement for expenses.

ARSD 20:38

20:38:27:01. Definitions. Terms defined in SDCL chapter 36-18A have the same meaning when used in this article. In addition, terms used in this article mean:

- (1) "ARE", Architectural Registration Examination;
- (2) "ASAC/ABET," Applied Science Accreditation Commission of Accreditation Board for Engineering and Technology, Inc.;
- (3) "AXP," architectural experience program; 282-bqt
- (4) "CACB," Canadian Architectural Certification Board;
- (5) "CLARB," Council of Landscape Architectural Registration Boards;
- (6) "EAC/ABET," Engineering Accreditation Commission of Accreditation Board for Engineering and Technology, Inc.;
- (7) "EI," engineering intern;
- (8) "EIT," engineer-in-training;
- (9) "FE," Fundamentals of Engineering Examination;
- (10) "FS," Fundamentals of Land Surveying Examination;
- (11) "LAAB," Landscape Architectural Accrediting Board;



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- (12) "LARE," landscape architectural registration exam;
- (13) "LSI," land surveying intern;
- (14) "LSIT," land surveyor-in-training;
- (15) "NAAB," National Architectural Accrediting Board;
- (16) "NCARB," National Council of Architectural Registration Boards;
- (17) "NCEES," National Council of Examiners for Engineering and Surveying;
- (18) "NICET," National Institute for Certification in Engineering Technologies;
- (19) "PDH," Professional Development Hour;
- (20) "PE," Principles and Practice of Engineering Examination;
- (21) "PS," Principles and Practice of Land Surveying Examination; and
- (22) "TAC/ABET," Technology Accreditation Commission of Accreditation Board for Engineering and Technology, Inc.

20:38:37:03. Construction administration services. Construction administration services shall be provided by a licensee practicing within the licensee's profession and comprise the following minimum services:

(1) Visiting the construction site on a regular basis as is necessary to determine that the work is proceeding generally in accordance with the contract documents and technical submissions;

(2) Processing shop drawings, samples, and other submittals required of the contractor by the terms of construction contract documents to assure general accordance with the plans and specifications; and

(3) Notifying the owner, the client, the board, and the building official of any observed and uncorrected code violations; changes that affect code compliance; the use of any materials, assemblies, components, or equipment prohibited by a code; major or substantial changes between such technical submissions and the work in progress; or any deviation from the technical submissions that the design professional identifies as constituting a hazard to the public, which is observed in the course of performing the professional's construction administration duties.

The project's architect or professional engineer shall report to the board and the building official if neither one is engaged to provide construction administration services.



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20:38:37:04. Combining architecture, engineering, and construction services.

A business entity offering any combination of architectural and engineering services together with construction services such as design-build contracting may offer to render architectural and engineering services only if:

- (1) An architect and professional engineer licensed in the state participates substantially in all material aspects of the offering;
- (2) There is written disclosure at the time of the offering that the architect and professional engineer are engaged by and contractually responsible to the contractor, contractor as a joint venture, or owner/client;
- (3) The architect and professional engineer will have direct supervision of the design work and that the professional services are not terminated without the consent of the owner/client;
- (4) The rendering of architectural and engineering services by such professionals will conform to the provisions of SDCL chapter 36-18A and this article; and
- (5) Design professionals perform construction administration on the projects.

20:38:37:06. Services on exempt projects or for exempt entities. Any licensed professional architect, engineer, landscape architect, or land surveyor in South Dakota performing services on an exempt project or for an exempt governmental entity, pursuant to SDCL 36-18A-9, shall, in the performance of such professional services, comply with all applicable provisions of state law and administrative rules in the performance of such services. The professional standard of care for a licensee, and the mandatory compliance with state statutes and administrative regulations, are not reduced, modified, or lessened when the project is exempt.

20:38:38:01. Automatic fire sprinkler and fire alarm systems. If fire sprinkler or fire alarm shop drawings are to be used to finalize engineering concepts, a licensed professional engineer shall provide and be responsible for the design concept and specifications, which must be adequate for shop drawing preparation by others. The licensed professional engineer shall review the shop drawings of the system prior to



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its permit review and installation. In addition, the licensed professional engineer shall provide a review stamp or letter of review attached to the drawings.

After installation of the fire sprinkler system and fire alarm system, the licensee shall furnish a written letter stating the system has been installed in accordance with the shop drawings and tested in accordance with the manufacturer's specifications and the appropriate National Fire Protection Association requirements. This acceptance letter shall be made available to appropriate jurisdictional authorities and interested parties.

20:38:38:02. Shop drawings for fire sprinkler system. A properly qualified technician or licensee shall execute the design concept and prepare shop drawings for a fire sprinkler system.

20:38:38:03. Qualified fire sprinkler system technician. A qualified fire sprinkler system technician is a person who has at least one of the following qualifications:

- (1) National Institute for Certification in Engineering Technologies (NICET) level III technician certifications in the subfield of fire sprinkler systems;
- (2) A NICET level IV technician certification in the subfield of fire sprinkler systems; or
- (3) 20 years of experience in the field of fire sprinkler system layout.

20:38:38:04. Shop drawings for fire alarm system. A properly qualified technician or licensee shall execute the design concept and prepare shop drawings for any fire alarm system.

20:38:38:05. Qualified fire alarm system technician. A qualified fire alarm system technician is a person who has at least one of the following qualifications in fire alarm systems:

- (1) National Institute for Certification in Engineering Technologies (NICET) level III technician certification in the subfield of fire alarm systems;
 - (2) A NICET level IV technician certification in the subfield of fire alarm systems;
- or
- (3) 20 years of experience in the field of fire alarm systems layout.



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20:38:38:06. Exempt projects and routine maintenance. A licensee may not be required to provide design concepts or an acceptance letter of review for:

- (1) Projects exempt from building code requirements for fire protection; or
- (2) Routine maintenance, when accomplished in accordance with National Fire Protection Association (NFPA) standard #25, "Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems."

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Responsible Charge

Engineering design work must be prepared under a professional engineer with immediate and responsible direction, often referred to as “**responsible charge**”, as described in the laws and rules below. The engineer with **responsible charge** signs and seals documents produced under their responsibility. A typical project has multiple responsible engineers, one for each design discipline (civil, structural, mechanical, electrical, etc.), and a prime professional, as described in the next section.

Responsible charge can also refer to the management of a field of engineering services within an organization.

SDCL 36-18A

36-18A-1. Definition of terms.

...

(27) "**Responsible charge**," the immediate and responsible direction by a licensed professional who has exercised personal direction, guidance, and control over the design, preparation of documents, construction administration, and other professional services and has exercised professional judgment in all matters relating to those services;

36-18A-45. Seal, signature, and date as certification that work done by licensee--Documents on which seal required.

The application of the licensee's seal and signature and the date constitutes certification that the work on which it was applied was done by the licensee or under the licensee's **responsible charge**.

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(3) In the case of documents for projects which involve multiple licensees of more than one technical profession, the title or index sheet shall be sealed, signed, and dated by the prime professional in **responsible charge** of coordinating the various technical professions involved in the project. In addition, each sheet shall be sealed, signed, and dated by the licensee or licensees who prepared or who are in **responsible charge** of that sheet.



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36-18A-46.1. Completion of work--Successor licensee--Nonprofessional services.

If a licensee in **responsible charge** of the work is unavailable to complete the work, a successor licensee may take **responsible charge** by performing all professional services to include developing a complete design file with work or design criteria, calculations, code research, and any necessary and appropriate changes to the work. The nonprofessional services, such as drafting, need not be redone by the successor licensee but shall clearly and accurately reflect the successor licensee's work. The burden is on the successor licensee to show compliance. The successor licensee shall sign, date, and seal all original documents. The successor licensee shall have control of and responsibility for the work product and the signed and sealed originals of all documents.

36-18A-47. Firm or office to have appropriately licensed person in charge.

Any office physically located and maintained in this state to offer engineering, architectural, land surveying, landscape architectural, petroleum release assessment, or petroleum release remediation services shall have an appropriately licensed person who is regularly employed in that office and who has **responsible charge** and direct supervision and control of all professional services. No licensee who renders occasional, part-time, or consulting services to or for an office may be designated as the appropriately licensed person in **responsible charge** for the professional activities of the office unless a schedule is posted at the office for the public's knowledge and filed with and approved by the board stating when the licensee is physically in the office.

ARSD 20:38

20:38:36:01. Professional conduct.

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...

(14) Licensees may not seal plans or other documents for the preparation of which they were not in direct **responsible charge** or that deal with subject matter in which they lack competence;

...

(30) Licensees maintaining an office in South Dakota shall have a licensee regularly employed and scheduled in that office who is in direct **responsible charge** of the professional work;



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NSPE

Responsible charge is also defined in a National Society of Professional Engineers (NSPE) reference document, and copied below for convenience.

NSPE Position Statement No. 10-1778

- Defines “**responsible charge**” as the direct control and personal supervision of engineering work.
- The professional engineer in **responsible charge** is actively engaged in the engineering process, from conception to completion.
- Engineering decisions must be personally made by the professional engineer or by others over which the professional engineer provides supervisory direction and control authority.
- Reviewing drawings or documents after their completion without involvement in the design and development process appears not to satisfy the definition of **responsible charge**.

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Prime Professional

For projects with multiple disciplines, a “prime professional” should be identified to coordinate the design, administer construction services, and other duties as described in the following laws and rules.

SDCL 36-18A

36-18A-45. Seal, signature, and date as certification that work done by licensee--Documents on which seal required.

...

(3) In the case of documents for projects which involve multiple licensees of more than one technical profession, the title or index sheet shall be sealed, signed, and dated by the **prime professional** in responsible charge of coordinating the various technical professions involved in the project. In addition, each sheet shall be sealed, signed, and dated by the licensee or licensees who prepared or who are in responsible charge of that sheet.

ARSD 20:38

20:38:37:02. Prime professional. The prime professional is the licensed architect or professional engineer who leads the design team and manages the design project. A prime professional is required for any project that requires the coordination of multiple disciplines, such as, architectural, landscape architectural, civil, structural, mechanical, or electrical engineering. The prime professional is charged with the coordination of the design and construction administration services. The prime professional may require testing and uncovering of work to determine compliance with approved plans and specifications. The duties of the prime professional include the following:

(1) Acts as point of contact for the project team during the design phase to ensure dialogue among participants, including owners, contractors, developers, design professionals, government bodies, and building officials;

(2) Verifies that the submittal to the building official is compatible and coordinated and provides a logical and comprehensive document;



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(3) Verifies that the design submitted is complete, and that all requirements for calculations and specifications are complete and accurately delineated on plans and related documents;

(4) Acts as point of contact during the review process with the building official and provides for timely response to questions, corrections, or requests for additional information on any element of the design package;

(5) Acts as point of contact for the design team following permit issuance, responds to changes, clarifications, and additional information that may be required from members of the design team to owners, developers, contractors, or building officials; and

(6) Coordinates construction administration services.

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Engineering Disciplines

An engineers initial area of practice (a.k.a. area of competency, discipline, or branch) is typically identified through NCEES P.E. examination and initial licensure. The Board does not track disciplines or require them to be listed on seals.

Licensees should only undertake assignments when competently qualified by education, training, and experience in the technical areas involved. The Board can assess if a registrant is deemed competent in a specific technical field and require a registrant to pass an exam.

Limited architectural design may be performed by a P.E. if incidental or of minor importance to the overall project.

SDCL 36-18A

36-18A-13. Incidental cross-practice by architects and engineers.

An architect may engage in the practice of professional engineering, or a professional engineer may engage in the practice of architecture, but only to the extent that such practice is incidental or of minor importance to a project or service being legally performed under this chapter.

ARSD 20:38

20:38:36:01. Professional conduct.

...

(12) Licensees shall confine professional services to the profession and technical field in which they are licensed and **competently qualified**;

(13) Licensees shall undertake to perform professional services only when they, together with those whom they may engage as consultants, are **qualified by education, training, and experience** in the specific technical areas involved. If a question arises about the **competence** of a licensee to perform an assignment in a specific technical field which cannot be otherwise resolved to the board's satisfaction, the board may require the licensee to submit to an examination in the technical field as specified by the board;



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(14) Licensees may not seal plans or other documents for the preparation of which they were not in direct responsible charge or that deal with subject matter in which they lack **competence**;

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Professional Conduct and Ethics

The following laws and rules help define professional conduct and related requirements.

SDCL 36-18A

36-18A-53. Employee not responsible for corporate violations--Exception.

A violation of any of the provisions of this chapter by a business entity is not grounds for the revocation, suspension, or refusal to renew a license of an individual employee of the business entity unless the board finds that the employee was a party to the violation.

36-18A-56. Proof of injury not necessary for board action on certain violations.

The board may take action without proof of actual injury on the following violations:

- (1) Has violated any statute, rule, or order that the board has issued or is empowered to enforce;
- (2) Has engaged in conduct or acts that are fraudulent, deceptive, or dishonest whether or not the conduct or acts relate to professional practice;
- (3) Has engaged in conduct or acts that are negligent, incompetent, reckless, or otherwise in violation of established standards related to that person's professional practice;
- (4) Has been convicted of or has pleaded guilty or nolo contendere to a felony, whether or not the person admits guilt, or has been shown to have engaged in acts or practices tending to show that the applicant or licensee is incompetent or has engaged in conduct reflecting adversely on the person's ability or fitness to engage in that person's professional practice. A copy of the record of conviction or plea of guilty or nolo contendere is conclusive evidence;
- (5) Has employed fraud or deception in obtaining a license or renewal of a license or in passing all or a portion of the examination;
- (6) Has had that person's professional license, registration, certificate, right to examination, or other similar rights to practice revoked, suspended, canceled, given probation, limited, censured, reprimanded, or not renewed for cause in any state or territory of the United States, the District of Columbia, or in any foreign country;
- (7) Failed to meet any requirement for issuance or renewal of the person's license or certificate;
- (8) Has used or attempted to use as that person's own the certificate or seal of another;



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- (9) Has used or attempted to use an expired, suspended, or revoked license;
- (10) Has placed that person's seal or signature to a plan, specification, report, plat, or other technical submission or document not prepared by that person or under that person's responsible charge;
- (11) Aided or assisted another person in violating any provision of this chapter or the rules pertaining to this chapter;
- (12) Failed to promptly and appropriately provide information requested by the board as a result of a formal or informal complaint to the board which would indicate a violation of this chapter;
- (13) Has provided false testimony or information to the board;
- (14) Failed to report known violations of this chapter;
- (15) Has engaged in the use of untruthful or improbable statements in advertisements;
- (16) Failed to complete continuing professional development requirements set by the board;
- (17) Made misleading or untruthful representations in advertisements or published materials;
- (18) Falsely used any title, figures, letters, or descriptions to imply licensure;
- (19) Is habitually intoxicated or is addicted to the use of alcohol or illegal drugs;
- (20) Has committed an act, engaged in conduct, or committed practices that may result in an immediate threat to the public; or
- (21) Has provided professional services in technical areas not covered by that person's license or competency.

36-18A-57. Disciplinary remedies available to board.

If the board determines that a person or business entity is in violation of this chapter, the board may take the following actions:

- (1) Deny an application;
- (2) Suspend, temporarily suspend, revoke, or refuse to renew an enrollment or license;
- (3) Place on probation, condition, or limit a licensee's practice;
- (4) Reimburse the board for expenses, fine, censure, or reprimand a person or business entity;
- (5) Refuse to permit a person to sit for examination or refuse to release a person's examination scores;
- (6) Require a person to sit for a reexamination; and



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(7) Pursue legal actions against a person or business entity that is not licensed to offer or render practices covered by this chapter.

36-18A-58. Additional remedies.

In lieu of or in addition to any disciplinary remedy provided in § 36-18A-57 or civil remedy provided in § 36-18A-61, the board may require, as a condition of continued licensure, termination of suspension, reinstatement of license, examination, or release of examination grades, that the person:

- (1) Submit to a qualifying review of the person's ability, skills, or quality of work. The person may be required to attend remedial education courses; and
- (2) Complete to the satisfaction of the board continuing professional education courses as the board may specify by rule or order, pursuant to chapter 1-26.

36-18A-65. Prohibited acts--Violation as Class 2 misdemeanor.

No person may:

- (1) Practice, or offer to practice, the professions of engineering, architecture, land surveying, landscape architecture, petroleum release assessment, or petroleum release remediation in this state without being licensed or exempt in accordance with the provisions of this chapter;
- (2) Use or employ the title of architect, landscape architect, land surveyor, professional engineer, petroleum release assessor, or petroleum release remediator with or without qualifying adjectives without being licensed in accordance with the provisions of this chapter;
- (3) Use any other words, letters, or figures indicating or intending to imply that the person is a professional engineer, architect, land surveyor, landscape architect, petroleum release assessor, or petroleum release remediator without being licensed in accordance with the provision of this chapter;
- (4) Present or attempt to use the certificate of licensure or seal of another, or affix a professional engineer's, architect's, land surveyor's, or landscape architect's seal on any plans, specifications, drawings, or other technical submittals which have not been prepared by that person or under that person's responsible charge and direct personal supervision;
- (5) Present any false or forged evidence of any kind to the board in obtaining a certificate of licensure;
- (6) Falsely impersonate any other licensee;
- (7) Attempt to use an expired, suspended, or revoked license;



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- (8) Knowingly allow person's name or seal to be used upon plans or work not actually performed by that person or under that person's responsible charge and direct supervision; or
- (9) By act of commission or omission, violate any of the provisions of this chapter. A violation of this section is a Class 2 misdemeanor.

36-18A-66. Prohibited acts--Repeated violation as Class 1 misdemeanor.

No person may:

- (1) Accept or contract to receive, directly or indirectly, any commission, percentage, gift, or other item of value for that person's influence in securing a contract or approving the performance of a contract, from any manufacturer, agent, or vendor of any material of any sort used or recommended to be used in the construction of any project for the plans or construction of which any person is employed; or
- (2) Give or offer to give to any person any commission, percentage, gift, or other item of value for that person's influence in securing a contract or approving the performance of a contract or supplying any material of any sort which may be for consideration in the construction of any project. A violation of this section is a Class 2 misdemeanor for the first offense and a Class 1 misdemeanor for the second or any subsequent offense.

36-18A-73. Certification required for environmental technical services-- Violation as misdemeanor.

No person or business entity may perform environmental technical services without certification. A violation of this section is a Class 1 misdemeanor.

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20:38:36:01. Professional conduct. To establish and maintain a high standard of integrity, skill, and practice in the professions and to safeguard the life, health, safety, welfare, and property of the public, the following rules of professional conduct are binding upon each person holding a license and on all business entities authorized to offer or perform professional services under this article. Noncompliance with any of the rules of professional conduct can result in disciplinary actions. Licensees shall comply with the following rules of professional conduct:



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(1) Licensees shall maintain interest in the public welfare and be ready to apply their special knowledge, skill, and training for the use and benefit of the public;

(2) Licensees shall be cognizant that their first and foremost responsibility is to the public welfare in the performance of services to clients and employers;

(3) Licensees may not associate with or allow the use of their name in connection with any enterprise, person, or firm of questionable character such as engaging in fraudulent or dishonest business or professional practices;

(4) Licensees shall carry on professional work in a spirit of fairness to all concerned, fidelity to clients and employers, and loyalty to country and shall be devoted to high ideals of courtesy and personal honor;

(5) Licensees shall act with reasonable care and competence and shall apply the technical knowledge and skill which are ordinarily applied by other professionals of good standing who are practicing in this state;

(6) Licensees shall regard as confidential any information obtained about the business affairs and technical methods or processes of a client or employer;

(7) Professionals shall accurately represent to a prospective or existing client or employer their qualifications and the scope of their responsibility in connection with work for which they are claiming credit;

(8) Licensees shall inform a client or employer of any business connections, interests, or affiliations that might influence their judgment or impair the disinterested quality of their services. If the client or employer objects to ~~such~~ business connection, interest or affiliation, the licensee shall either terminate the business connection, interest or affiliation, or offer to give up the employment;

(9) Licensees shall accept financial or other compensation for a particular service from one source only unless there is full disclosure and the consent of all interested parties;

(10) Licensees shall comply with the licensure laws and rules governing their professional practice in any United States jurisdiction;



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(11) Licensees shall approve and seal only those documents and submissions that conform to accepted architectural, engineering, landscape architectural, land surveying, or petroleum release standards and safeguard the life, health, safety, welfare, and property of the public;

(12) Licensees shall confine professional services to the profession and technical field in which they are licensed and competently qualified;

(13) Licensees shall undertake to perform professional services only when they, together with those whom they may engage as consultants, are qualified by education, training, and experience in the specific technical areas involved. If a question arises about the competence of a licensee to perform an assignment in a specific technical field which cannot be otherwise resolved to the board's satisfaction, the board may require the licensee to submit to an examination in the technical field as specified by the board;

(14) Licensees may not seal plans or other documents for the preparation of which they were not in direct responsible charge or that deal with subject matter in which they lack competence;

(15) Licensees may not directly or indirectly use or make use of for their own benefit any property, facility, or services of their client or employer unless prior authority is obtained;

(16) Licensees shall cooperate with architectural, engineering, landscape architecture, land surveying, and petroleum release agencies in advancing those professions;

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(17) Licensees may not engage in any discriminatory practices prohibited by law in the employment of personnel and in the conduct of business;

(18) Licensees may not solicit or accept compensation from material or equipment suppliers for specifying their products;



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(19) Licensees may not solicit or accept compensation, directly or indirectly, from contractors, their agents, or other parties not under contract in connection with work for clients or employers for which they are responsible;

(20) Licensees may not offer to pay, directly or indirectly, a commission, political contribution, gift, or other compensation in order to secure work, exclusive of payment made to an employment agency for its services;

(21) Licensees shall take into account all applicable state and municipal laws, ordinances, and regulations and may not knowingly execute a project in violation of them;

(22) In the course of work on a project, if a licensee becomes aware of an action taken by the client or employer against the licensee's advice, which violates applicable state or municipal laws and regulations and which will, in the licensee's judgment, adversely affect the life, health, safety, welfare and property of the public, the licensee shall take the following actions:

(a) Advise the client or employer in writing of the licensee's refusal to consent to the decision and give reasons for that refusal;

(b) If the licensee's advice is ignored despite the objection, terminate the licensee's services to the project; and

(c) Provide a copy of the licensee's objection and reasoning to the public official charged with the enforcement of the applicable state or municipal laws and regulations;

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(23) Licensees shall indicate any reservation on a reference for an applicant if they have reason to believe the applicant is unqualified by education, training, or experience to become licensed. The licensee's opinion shall be based on the qualifications a reasonable and prudent professional would require an applicant to possess;

(24) Licensees may accept an assignment for coordination of an entire project if each design segment is signed and sealed by the licensee responsible for preparation of that design segment;



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(25) Licensees shall be completely objective and truthful in all professional reports, statements, or testimony and shall include all relevant and pertinent information in those reports, statements, or testimony;

(26) Licensees may express a professional opinion publicly only if it is founded upon adequate knowledge of the facts at issue, upon background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the licensee's testimony if serving as an expert or technical witness;

(27) Licensees making public statements on professional questions shall disclose if the licensee is being compensated for making such statements;

(28) Licensees shall make decisions impartially when acting as an interpreter of construction contract documents and a judge of contract performance, favoring neither party to the contract;

(29) Licensees who are aware of the violation of any of the rules of professional conduct by another licensee shall report the violation to the board for investigation;

(30) Licensees maintaining an office in South Dakota shall have a licensee regularly employed and scheduled in that office who is in direct responsible charge of the professional work;

(31) Licensees may not engage in conduct involving fraud or disregard of the rights of others;

(32) Licensees are bound by and shall comply with all provisions relating to their profession and technical field contained in SDCL chapter 36-18A and this article;

(33) Licensees must notify the board within 30 days if another state has disciplined them with a reprimand, censure, suspension, temporary suspension, probation, revocation, or refusal to renew a license; and

(34) Licensees shall respond within 30 days of an audit notification.

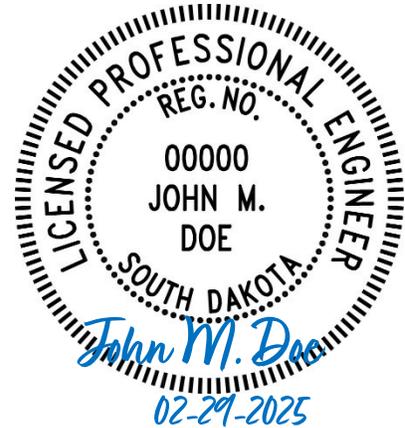


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Sign and Seal Requirements

Engineering seal and signature requirements are found in SDCL 36-18A-44. Here are highlights that may differ from requirements in other states:

- Seal outer diameter 1” to 2”
- Hand signature and date location to be next to or over the seal
- Ink color not specified
- For specifications and reports, only an introductory page needs to be sealed
- Every drawing shall be sealed
- If multiple licensees, the prime professional shall seal a cover or index
- Acceptable forms of signature:
 - Original (hand) sign and seal (rubber stamp, embossed, or electronic image)
 - Digital/electronic signature requirements:
 - Digital seal image and signature should show on printouts
 - Unique to registrant
 - Capable of verification
 - Under sole control of the licensee
 - Signature invalidated with document changes (or changes are prevented)
 - Adobe, Bluebeam, & DocuSign e-signatures appear acceptable



Laws and Rules

The following is a copy-paste of the relevant laws and rules:

SDCL 36-18A

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36-18A-44. Seal of licensees--Contents--Signature--Certain persons prohibited from using seal.

Any licensed professional engineer, architect, land surveyor, and landscape architect shall use an appropriate seal. The seal shall contain the following information:

- (1) The name, South Dakota;
- (2) Licensee's name;
- (3) License number; and



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- (4) The appropriate title or combination of titles: Professional Engineer, Architect, Land Surveyor, Landscape Architect.

The seal shall be legible and shall have an outer circle with a diameter measuring at least one inch and no greater than two inches and an inner circle with a diameter measuring five-eighths of the diameter of the outer circle. Titles may be prefixed with the words, Licensed or Registered. The seal may be an embossed seal, a rubber stamp, a computer-generated seal, or other facsimile found acceptable to the board. The licensee's signature and the date shall be adjacent to or across the seal. Petroleum release assessors and remediators, or interns, may not use a seal.

36-18A-45. Seal, signature, and date as certification that work done by licensee--Documents on which seal required.

The application of the licensee's seal and signature and the date constitutes certification that the work on which it was applied was done by the licensee or under the licensee's responsible charge. The seal, signature, and date shall be placed in such a manner that can be legibly reproduced on the following:

- (1) All originals, copies, tracings, electronic submittals, or other reproductions of all final drawings, specifications, reports, plats, plans, land surveys, design information, and calculations prepared by the licensee or under the licensee's responsible charge when presented to a client or any public or governmental agency. A licensee may not review or check technical submissions of another licensed professional or unlicensed person and seal the documents as the licensee's own work;
- (2) Preliminary work shall contain a note that the submittal is Not for Construction, Preliminary, or other such explanation that it is not final; and
- (3) In the case of documents for projects which involve multiple licensees of more than one technical profession, the title or index sheet shall be sealed, signed, and dated by the prime professional in responsible charge of coordinating the various technical professions involved in the project. In addition, each sheet shall be sealed, signed, and dated by the licensee or licensees who prepared or who are in responsible charge of that sheet.



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36-18A-45.1. Digital signatures.

Each drawing, report, or document that is signed and sealed using a digital signature shall have an electronic authentication process attached to or logically associated with the electronic document. The licensee's use of a digital signature is optional and, if used, shall be:

- (1) Unique to the licensee;
- (2) Capable of verification;
- (3) Under the sole control of the licensee using it; and
- (4) Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

A digital signature that uses a process approved by the board is presumed to meet the criteria provided in this section. Any hard copy printed from the transmitted electronic file shall bear the facsimile of the signature and seal and shall be a confirmation that the electronic file was not altered after the initial digital signing of the file. Any alterations to the file shall cause the facsimile of the signature to be voided.

ARSD 20:38

20:38:37:01. Seals. A licensed professional engineer, architect, land surveyor, or landscape architect is responsible for the security and proper use of an appropriate seal. No petroleum release assessor, petroleum release remediator, or intern may obtain or use a seal. Improper use of the seal or failure to sign and seal final work is grounds for disciplinary action. The seal shall be used on all final documents, including plats, reports, plans, and specifications. The seal implies responsibility for the entire submission unless the area of responsibility is clearly identified in the information accompanying the seal. Drawings prepared by a licensed professional shall have the seal and license number with a signature of the licensee who is in responsible charge on each sheet of those drawings.

Work performed during construction administration shall also be signed and sealed if it affects the intent of the project or changes the life safety aspects of the project. Any exempt project services performed by a licensed professional shall be sealed. Review drafts or presentation documents, such as renderings or drawings used to communicate conceptual information only, are not required to be signed and sealed.



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Continuing Education

Per ARSD 20:38:35, the following continuing professional competency (CPC) is required every 2-year renewal period, where PDH is a professional development hour:

- 30 PDH
- Minimum 20 PDH in **technical** subjects that lead to further professional development in the licensee's field of practice
 - Includes design; environmental analysis; programming and planning; structural systems; lateral forces; mechanical, electrical, plumbing, and acoustical systems; construction methods; construction observation; site and soils analyses and design; accessibility; building codes; selection of building materials; and land survey
- Maximum 10 PDH in professional management subjects
 - Includes quality management, professional business practice, and ethics
- The Board does NOT pre-approve providers or specific courses
- Maximum 15 PDH carried over to next renewal period
- Retain PDH records for minimum 3 years
- For dual licensees, minimum 10 PDH for each profession (eng. & surveying)
- Renewal date based on date initial licensure

Laws and Rules

Here is a copy-paste of the relevant laws and rules:

SDCL 36-18A

36-18A-38. Practice permitted recipient of license--Use of titles--License as evidence.

The recipient of a license issued under this chapter may practice engineering, architecture, land surveying, landscape architecture, petroleum release assessment, or petroleum release remediation and use the appropriate title professional engineer, architect, land surveyor, landscape architect, petroleum release assessor, or petroleum release remediator. A licensee may use a title either with or without prefixing the word, licensed or registered. No licensee may practice a profession or use a title unless the license specifically permits such practice and usage. An unrevoked and unexpired license issued as provided in this chapter is presumptive evidence in all courts and places that the person named is legally licensed.



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36-18A-40. Failure to complete continuing professional development requirements as grounds for nonrenewal--Inactive or retired status.

The board may decline to renew a license if an applicant has not completed continuing professional development requirements. A license for a two-year period shall be issued upon completion of the requirements. The board may provide, by rules promulgated pursuant to chapter 1-26, for the inactive or retired status of a person who has been duly licensed under this chapter and who chooses to relinquish or not to renew a license.

36-18A-41. Advance notice by board of expiration of license, professional development requirements, and fees.

The board shall notify by mail any person licensed under this chapter of the date of expiration of the license, the requirement of professional development hours, and the amount of the fee required for renewal. The notice shall be mailed to the last known address of the licensee at least one month in advance of the date of expiration of the license. A licensee shall notify the board of any address changes.

ARSD 20:38

20:38:35:01. Continuing professional development required for license renewal. Unless exempted, all individual licensees shall obtain a minimum of 30 PDH during the biennium preceding license renewal. PDH credit must be obtained in a qualifying professional development activity, including courses or activities with clear purposes and objectives that maintain, improve, or expand the licensee's skills and knowledge relevant to the licensee's field of practice.

Of the required 30 PDH, a minimum of 20 PDH must be in technical subjects that lead to further professional development in the licensee's field of practice. Technical subjects include design; environmental analysis; programming and planning; structural systems; lateral forces; mechanical, electrical, plumbing, and acoustical systems; construction methods; construction observation; site and soils analyses and design; accessibility; building codes; selection of building materials; and land survey.

Of the required 30 PDH, a maximum of 10 PDH may be in professional management subjects such as total quality management, professional business practice, and ethics.



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Licensees submitting a renewal application shall include a copy of the PDH log required by subdivision 20:38:35:07(1). The licensee shall certify, under penalty of perjury, that all information submitted by the licensee in the application is true and correct.

If notified by the board of an audit, a licensee shall supply sufficient additional information to permit verification that the continuing professional development requirement has been met.

20:38:35:02. Alternative continuing professional development option for architects. As an alternative to the requirements of § 20:38:35:01, a licensed architect may meet the continued professional development requirement for renewal by obtaining 12 Continuing Education Hours (CEH) per calendar year. CEH shall be in health, safety, and welfare subjects acquired in structured educational activities.

For the purposes of this section, CEH is 50 to 60 minutes of continuous instructional contact in structured educational activities intended to increase or update the licensee's knowledge and competence in health, safety, and welfare subjects.

For purposes of this section, a structured educational activity is one in which 75 percent of the activity's content and instructional time is devoted to health, safety, and welfare subjects related to the practice of architecture. The activity shall be provided by a qualified individual or organization and can be delivered by direct contact or distance learning methods.

For purposes of this section, health, safety, and welfare subjects are those that the board deems appropriate to safeguard the public in the following areas of practice:

- (1) Building systems: communications, electrical, fire protection, mechanical, plumbing, security, and structural;
- (2) Construction contract administration: bidding, contract negotiations, and contracts;



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- (3) Construction documents: delivery methods, drawings, and specifications;
- (4) Design: building design, interiors, master planning, safety and security measures, site design, and urban planning;
- (5) Environmental: energy efficiency, hazardous materials, insulations, natural hazards, natural resources, sustainability, and weatherproofing;
- (6) Legal: accessibility, codes, ethics, insurance to protect owners and public, laws, life safety, regulations, standards, and zoning;
- (7) Materials and methods: construction systems, equipment, finishes, furnishings, and products;
- (8) Pre-design: land use analysis, programming, site and soils analysis, site selection, and surveying; and
- (9) Preservation: adaptation, historic, and reuse.

20:38:35:03. PDH sources. PDH sources are as follows:

- (1) College courses, completed with passing grades;
- (2) Continuing education courses, completed with passing grades;
- (3) Correspondence, televised, videotaped, audiotaped, Internet, and other short courses or tutorials if such activities include testing completed with verifiable passing scores;
- (4) Qualifying professional or technical seminars, in-house courses, or workshops;
- (5) Presenting, teaching, or instructing in the qualifying activities listed in subdivision (1) to (4), inclusive, of this section;
- (6) Writing of published papers, articles, or books;
- (7) Active participation in professional or technical societies;
- (8) Patents; and
- (9) Self-study activities, including Internet courses, books, or articles, or video/audio tapes, if such activities include testing or examination with formal, recorded passing scores.



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Teaching credit is valid for teaching a course or seminar for the first time only. Teaching credit does not apply to part-time or full-time faculty.

20:38:35:04. Multiple licenses. A person licensed in more than one profession regulated by the board must obtain a combined total of 30 PDH biennially, at least one-third of which must be obtained in each profession.

20:38:35:05. Reactivation. A former licensee seeking reactivation of an expired license within three years of expiration must obtain a minimum of all delinquent PDH for the inactive years up to a maximum of 30 PDH. A former multiple licensee must obtain a minimum of 30 PDH, at least ten of which must be obtained in each profession. For reinstatement purposes, the expiration date of licensure for additional professions shall be the same expiration date as that for the first profession. A person maintaining inactive status and seeking reactivation must earn 15 PDH for each year exempted before returning to active practice, up to a maximum of 30 PDH.

20:38:35:06. PDH credit. The board is the final authority for approval of PDH credit. The board may not pre-approve courses or providers for PDH credit. PDH credit is determined as follows:

- (1) One college semester hour, 45 PDH;
- (2) One college quarter hour, 30 PDH;
- (3) One continuing education unit (CEU), 10 PDH;
- (4) Program time of professional development course work or seminars as follows:

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Program Time	PDH Credit
0 to 29 minutes	no credit
30 to 49 minutes	0.5 PDH
50 to 79 minutes	1.0 PDH
80 to 109 minutes	1.5 PDH
Greater than 109 minutes	Actual time rounded to the nearest half hour;

- (5) One hour of presenting, teaching, or instructing, 2 PDH;



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- (6) Each published paper, article, or book, 10 PDH;
- (7) Active participation in each professional organization or technical society, 2 PDH per organization per biennial renewal period, maximum 6 PDH per biennial renewal period; and
- (8) Each patent, 10 PDH.

20:38:35:07. Record keeping. A licensee shall maintain records to support PDH credits claimed. Records sufficient for audit purposes must be maintained for a minimum of three years after the date of renewal. A licensee shall keep the following:

- (1) A log showing the date of the activity, type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits claimed; and
- (2) Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance.

Records as maintained by the following professional record repositories may be provided in lieu of the above documents: the American Institute of Architects, the Professional Development Registry for Engineers and Surveyors, (CLARB), or NCEES.

20:38:35:08. Exemptions. A licensee may be temporarily exempted from the continuing professional development requirements as follows:

- (1) A licensee serving on temporary active duty in the armed forces of the United States for more than 120 consecutive days in the biennium ~~prior~~ to renewal is exempt from the continuing professional development requirement for that biennium. Supporting documentation must be furnished to the board;
- (2) A licensee experiencing physical disability, illness, or other extenuating circumstances in the last six months of the biennium prior to renewal may be exempt from the professional development requirement for that biennium. Supporting documentation must be furnished to the board;



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(3) A licensee maintaining inactive or retired status, subject to the provisions of this chapter.

20:38:35:09. Audits. The executive director shall select a random sample of license renewals to audit for compliance. Each licensee selected for audit shall submit a PDH log of the PDH claimed for the biennium preceding license renewal along with detailed information and documentation for the PDH credit claimed. The board may also audit based on complaints or charges against a licensee. Audit submissions must be organized in the same manner as the PDH log. Failure to submit the required documentation within 30 days of an audit notification or other request for information may result in disciplinary action. Falsification of documentation is grounds for disciplinary action.

20:38:35:10. Compliance. If an audit indicates a failure to comply with the professional development requirements, the licensee will have 30 calendar days after receipt of written notice to further reinforce the claim of PDH credits.

If the licensee is unable to reinforce the claim of PDH credits, the licensee shall acquire sufficient PDH credit to meet the requirements within 30 days of the receipt of the written notice and is subject to disciplinary action.

The board may take into consideration hardship or extenuating circumstances in allowing correction of deficiencies, but the deadline may not be extended more than one year.

20:38:35:11. Carryover PDH. If a licensee obtains more than 30 PDH in a biennium, up to 15 PDH may be carried over to the following biennium. Any PDH carried over may only be carried over from the previous biennium.



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Helpful References

South Dakota Board of Technical Professions (SDBTP)

General website: <https://dlr.sd.gov/btp/default.aspx>

License renewal: <https://sdbotp.portalus.thentiacloud.net/webs/portal/service/#/login>

Address change: <https://sdbotp.portalus.thentiacloud.net/webs/portal/service/#/login>

Laws & Rules: https://dlr.sd.gov/btp/laws_rules.aspx

SDCL 36-18A: <https://sdlegislature.gov/Statutes/36-18A>

ARSD 20:38: <https://sdlegislature.gov/Rules/Administrative/20:38>

FAQs: <https://dlr.sd.gov/btp/faq.aspx>

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