

REGISTER



South Dakota Legislative Research Council

Volume 34

Monday, 8:00 a.m., April 14, 2008

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

Department of Social Services: (April 7, 2008) has filed a rule amendment to increase the Supplemental Security Income (SSI) standard benefit amount.

This rule is adopted under the procedure provided in SDCL 1-36-20. This procedure permits adoption of a federally mandated rule without following the procedures set forth in SDCL 1-26-4 to 1-26-6, inclusive.

Department of Social Services: (April 7, 2008) has filed rule amendments to increase, as of January 1, the maximum amount of resources that may be protected for the community spouse and the maximum amount of the monthly maintenance needs allowance for the community spouse when that person's spouse enters a long-term care facility.

These rules are adopted under the procedure provided in SDCL 1-36-20. This procedure permits adoption of a federally mandated rule without following the procedures set forth in SDCL 1-26-4 to 1-26-6, inclusive.

Department of Social Services: Medical Services: (April 10, 2008) intends to amend rules to incorporate by reference the latest federal poverty levels established by the United States Department of Health and Human Services; incorporate by reference the latest versions of the Physicians' Current Procedural Terminology (cpt), the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CMP), and the CMS

Common Procedure Coding System (HCPCS) manuals; specify that it is the individual's responsibility to provide the Department with the information necessary to determine initial or continuing eligibility and that failure to do so results in denial of an application or termination of current benefits; and update an internal reference. The general authority for these rules, as cited by the department, is SDCL 25-4-45.3, 28-1-61, 28-6-1, 28-6A-12, 28-7A-3, and 28-7A-24.

A public hearing will be held in Conference Room #2, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on May 6, 2008, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Jill Wellhouse, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Wellhouse may be contacted by telephone at (605) 773-3305. Written comments must be received by May 16, 2008, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the department at the time of the hearing. The testimony must relate directly to the changes being proposed and must cite the specific rule number to which the comments are being directed. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3305 at least 48 hours before the hearing.

Department of Game, Fish and Parks: (April 10, 2008) intends to amend a Uses of Parks and Public Lands rule to allow deer

hunting to take place from October 1 to January 31 in all state parks, recreation areas, and nature areas during established hunting seasons according to provisions and restrictions set forth in ARSD 41:03:01:16, and allow only bow and arrow to be utilized at Clay County Recreation Area; amend Archery Restrictions to restrict persons hunting with bow and arrow from using or possessing lighted sight pins; amend Waterfowl Hunting Seasons rules to establish season dates for Units CGW-11A and NRW-11A (both units located in Bennett County), shooting hours, and daily bag and possession limits; and adjust the season dates to begin on the third Saturday of October for 65 consecutive days (October 18-December 21, 2008); amend an Archery Deer Hunting Season rule to establish season dates, number and types of available licenses, requirements and restrictions, open area, and shooting hours; and repeal the provisions in subsection (5) of ARSD 41:06:22:02 which provides that the archery deer hunting season in state parks, state recreation areas, and state nature areas are open beginning on October 1 and remain open until December 31, inclusive; amend an Archery Antelope Hunting Season rule to establish season dates, number and types of available licenses, requirements and restrictions, open area, and shooting hours; and add Hand County as an area open to archery antelope hunting; amend Youth Deer Hunting Season rules to establish season dates, numbers of available single tag "any antlerless deer" licenses, requirements and restrictions, open areas, and shooting hours; adjust the season length so that it runs continuously from the second Saturday of September through January 31; adjust the age requirement to allow youth who have not turned 18 (currently 16) by June 30 to purchase a license; adjust the application requirement to allow a resident parent or legal guardian to purchase a Youth Deer license for a designated mentored youth; allow archery hunters to hunt without wearing fluorescent orange; and require that mentored youth must be at least 10 and younger than 16 years of age; and amend a General Muzzleloading Deer Hunting Season

rule to establish season dates, number of available "any deer" and "any antlerless deer" licenses, requirements and restrictions, open area, and shooting hours; adjust the number of "any deer" licenses available only to residents from 400 to 1,000 licenses. The general authority for these rules, as cited by the department, is SDCL 41-2-18, 41-6-18.2, 41-6-18.4, 41-6-21, 41-11-5, and 41-17-1.1.

A public hearing will be held at the State Game Lodge located in Custer State Park, 13389 U.S. Highway 16A, Custer, South Dakota, on May 1, 2008, at 2:00 p.m. (MDT). Copies of the proposed rules may be obtained from and written comments sent to Jeffrey R. Vonk, Secretary, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received by and in the office of the Secretary of the Department of Game, Fish and Parks on or before 12:00 Noon three (3) days prior to the date of the hearing to be included within the record of the public hearing and to be considered by the Commission. Comments may also be sent by E-mail to chuck.schlueter@state.sd.us. All written and e-mail comments must include the commenter's name and address. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3387 before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Bill Abernathy, Pierre, was reappointed on April 4, 2008, to the **Law Enforcement Civil Service Commission**, effective April 23, 2008, and shall continue until April 22, 2012.

Rudy Gerstner, Yankton, was reappointed on April 4, 2008, to the **Petroleum Release Compensation Board**, effective May 2, 2008, and shall continue until May 1, 2013.

Judy Greff, Huron, was reappointed on April 4, 2008, to the **Career Service Commission**, effective April 23, 2008, and shall continue until April 22, 2012.

Richard O. Gregerson, Sioux Falls, was reappointed on April 4, 2008, to the **Transportation Commission**, effective April 19, 2008, and shall continue until April 18, 2012.

Brian Jackson, Sioux Falls, was reappointed on April 4, 2008, to the **Petroleum Release Compensation Board**, effective May 2, 2008, and shall continue until May 1, 2013.

Casey Krogman, White River, was appointed on April 4, 2008, to the **State Conservation Commission**, to replace William Dempsey, effective April 4, 2008, and shall continue until January 1, 2009.

Brad Tennant, Aberdeen, was reappointed on April 4, 2008, to the **State Historical Society Board of Trustees**, effective April 16, 2008, and shall continue until April 15, 2011.

Tom D. Tobin, Winner, was reappointed on April 4, 2008, to the **State Historical Society Board of Trustees**, effective April 16, 2008, and shall continue until April 15, 2011.

Michael J. Trucano, Deadwood, was reappointed on April 4, 2008, to the **Transportation Commission**, effective April 19, 2008, and shall continue until April 18, 2012.

Mike Authier, Vivian, was reappointed on April 7, 2008, to the **Game, Fish and Parks Commission**, effective immediately and shall continue until January 10, 2012.

Dennis Eisnach, Pierre, was reappointed on April 7, 2008, to the **South Dakota Real Estate Commission**, effective April 12, 2008, and shall continue until April 11, 2011.

Eileen Fischer, Fort Pierre, was reappointed on April 7, 2008, to the **South Dakota Real Estate Commission**, effective April 12, 2008, and shall continue until April 11, 2011.

Pat Clark, Pierre, was appointed on April 9, 2008, to the **Cosmetology Commission**, to replace Dorothy Johnson, effective April 15, 2008, and shall continue until April 14, 2011.

James E. McMahon, Canton, was appointed on April 9, 2008, to the **Game, Fish and Parks Commission**, to replace Richard Brown, effective May 5, 2008, and shall continue until January 10, 2012.

Stacy Phelps, Rapid City, was appointed on April 9, 2008, to the **South Dakota Board of Education**, to replace Clint Waara, effective April 8, 2008, and shall continue until December 31, 2008.

Graham Fleming, Berkeley, California, was appointed on April 10, 2008, to the **South Dakota Science and Technology Authority**, effective April 9, 2008, and shall continue until April 9, 2014.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

4-16-2008	Revenue and Regulation: Division of Insurance	Amend rules to require all life insurance companies and fraternal benefit societies to submit an actuarial opinion, based on an asset adequacy analysis, and a regulatory asset adequacy issues summary with their annual statement; 34 SDR 233.
4-24-2008	Transportation	Repeal a speed zone in Minnehaha County on State Trunk Highway 264 because the segment of highway referenced in the current rule has been removed from the state highway system; amend a speed zone in Hughes County on SD Highway 1804 north of the city of Pierre to increase the allowable speed limit to 65 MPH for a portion of this highway north of the Oahe Dam; amend a 45 MPH speed zone along U.S. Highway 18 in Shannon County to reflect the true location of the limits of the reduced speed zone; amend a traffic safety rule in Pennington County to correct the official highway identification which prohibits parking along the south side of State Trunk Highway 44 (remove reference to Sate Trunk Highway 79 which has been relocated); and adopt a new traffic safety rule to prohibit parking along both sides of U.S. Highway 14A in Lawrence County along the shoulder of the road near Chop House south of Spearfish; 34 SDR 257.
4-25-2008	Labor: Electrical Commission	Adopt the 2008 National Electrical Code; 34 SDR 249.
4-25-2008	Revenue and Regulation: Division of Insurance	Amend an Advertisement of Health and Life Insurance rule to remove unnecessary requirements that are inconsistent with codified law and amend Employer Plans rules to prohibit discretionary clauses in health insurance policies; 34 SDR 257.
4-29-2008	Agriculture: Weed and Pest Commission	Amend a rule that will add Phragmites to the local noxious weed list and to add scientific names for all local noxious weeds and declared pests; 34 SDR 249.
5-1-2008	Health: Board of Optometry Examiners	Amend a rule so the fee for licensure by endorsement will be provided by rule instead of by statute; 34 SDR 257.
5-1-2008	Game, Fish and Parks	Amend a Uses of Parks and Public Lands rule to allow deer hunting to take place from October 1 to January 31 in all state parks, recreation areas, and nature areas during

		<p>established hunting seasons according to provisions and restrictions set forth in ARSD 41:03:01:16, and allow only bow and arrow to be utilized at Clay County Recreation Area; amend Archery Restrictions to restrict persons hunting with bow and arrow from using or possessing lighted sight pins; amend Waterfowl Hunting Seasons rules to establish season dates for Units CGW-11A and NRW-11A (both units located in Bennett County), shooting hours, and daily bag and possession limits; and adjust the season dates to begin on the third Saturday of October for 65 consecutive days (October 18-December 21, 2008); amend an Archery Deer Hunting Season rule to establish season dates, number and types of available licenses, requirements and restrictions, open area, and shooting hours; and repeal the provisions in subsection (5) of ARSD 41:06:22:02 which provides that the archery deer hunting season in state parks, state recreation areas, and state nature areas are open beginning on October 1 and remain open until December 31, inclusive; amend an Archery Antelope Hunting Season rule to establish season dates, number and types of available licenses, requirements and restrictions, open area, and shooting hours; and add Hand County as an area open to archery antelope hunting; amend Youth Deer Hunting Season rules to establish season dates, numbers of available single tag "any antlerless deer" licenses, requirements and restrictions, open areas, and shooting hours; adjust the season length so that it runs continuously from the second Saturday of September through January 31; adjust the age requirement to allow youth who have not turned 18 (currently 16) by June 30 to purchase a license; adjust the application requirement to allow a resident parent or legal guardian to purchase a Youth Deer license for a designated mentored youth; allow archery hunters to hunt without wearing fluorescent orange; and require that mentored youth must be at least 10 and younger than 16 years of age; and amend a General Muzzleloading Deer Hunting Season rule to establish season dates, number of available</p>
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		"any deer" and "any antlerless deer" licenses, requirements and restrictions, open area, and shooting hours; adjust the number of "any deer" licenses available only to residents from 400 to 1,000 licenses; 34 SDR 263.
5-6-2008	Social Services: Medical Services	Amend rules to incorporate by reference the latest federal poverty levels established by the United States Department of Health and Human Services; incorporate by reference the latest versions of the <u>Physicians' Current Procedural Terminology</u> (cpt), the <u>International Classification of Diseases, 9th Revision, Clinical Modification</u> (ICD-9-CMP), and the <u>CMS Common Procedure Coding System</u> (HCPCS) manuals; specify that it is the individual's responsibility to provide the Department with the information necessary to determine initial or continuing eligibility and that failure to do so results in denial of an application or termination of current benefits; and update an internal reference; 34 SDR 263.
5-8-2008	Revenue and Regulation: Real Estate Commission	Adopt rules to establish fees for a certificate of licensure, additional license, change of business address, change of association, duplicate license, and late renewal fees; 34 SDR 249.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, April 15, 2008, via Digital Dakota Network at the following locations: State Capitol Building, CAP A, Pierre, South Dakota; South Dakota State University, 101 Pugsley Center, Room 203, Brookings, South Dakota; Sioux Falls University Center, 2205 Career Place, University Center Building, Room 282, Sioux Falls, South Dakota; and Rapid City Regional Hospital, 353 Fairmount Blvd., Education Services Department, Rapid City, South Dakota; at 8:00 a.m. CDT (7:00 a.m. MDT). The committee chair has set the following tentative meeting schedule for the 2008 interim: May 13, June 10, August 19, September 23, December 2, and January 12, 2009.

Note: An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the Legislative Web site.