

REGISTER



South Dakota Legislative Research Council

Volume 37

Monday, 8:00 a.m., May 23, 2011

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

Department of Environment and Natural Resources: Board of Minerals and Environment:

(May 20, 2011) intends to update the state's existing hazardous waste rules by incorporating updated federal regulations by reference. These updates reflect changes made to the federal hazardous waste rules from July 1, 2008 through June 30, 2010. Changes include establishing an alternative set of requirements for academic laboratories; rules that address transboundary movement of hazardous wastes and spent lead-acid batteries; and technical and typographical corrections to errors in the federal rules. The general authority for these rules, as cited by the board, is SDCL 34A-11-9.

A public hearing will be held at the Floyd Matthew Environmental Education and Training Center, 523 East Capitol Avenue, Pierre, South Dakota, on August 18, 2011, at 10:00 a.m. CDT. Copies of the proposed rules may be obtained without charge by calling Holly Rilling at (605) 773-3153 or from the following website:

<http://denr.sd.gov/des/wm/hw/hwmainpage.aspx>

Written comments may be sent to the Department of Environment and Natural Resources, Waste Management Program, 523 East Capitol, Pierre, South Dakota 57501-3182. Material sent by mail must be received by August 18, 2011, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call Carrie Jacobson at (605) 773-3153 at least 48 hours before the hearing.

Department of Health: Division of Health and Medical Services: (May 20, 2011) intends to amend rules to revise the South Dakota reportable disease list, reduce reporting of latent tuberculosis infection to high-risk individuals only, and inventory the infectious agents for submission. The general authority for these rules, as cited by the department, is SDCL 34-1-17, 34-5-15, 34-22-9, 34-22-12, and 34-23-13.

A public hearing will be held in the State Health Lab Building, 615 East 4th Street, Pierre, South Dakota, on June 17, 2011, at 10:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Health, 600 East Capitol Avenue, Pierre, South Dakota 57501. Copies of the proposed rules may also be obtained at the Health Department website: <http://doh.sd.gov/News>. Material sent by mail must reach the department by June 27, 2011, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3361 at least 48 hours before the hearing.

NOTICE:

The **Department of Social Services** is proposing to revise the South Dakota Medicaid State Plan payment methodologies for Medicaid services effective July 1, 2011. The proposed changes are necessary to implement the reductions in reimbursement according to legislative appropriations. The changes are as follows:

- Inpatient and outpatient hospitals not classified as access critical and at-risk, inpatient psychiatric units, inpatient neonatal intensive care units, rehabilitation units, rehabilitation hospitals, psychiatric hospitals, specialized surgical hospitals, and hospitals located out-of-state will have their reimbursement rates reduced by 11.48%;
- Children's care hospitals and psychiatric residential treatment facilities will have their reimbursement rates reduced by 4.5%;
- Primary care physicians, including primary care pediatricians, internal medicine, obstetrics, family practice, general practice, physician assistants, nurse practitioners, clinical nurse specialists, and doctors of osteopathy will have their reimbursement effective reduced by 4.5%. All other physician specialties will have their reimbursement rates reduced by 5.1%;
- Reimbursement of prescription drugs will be reduced by an increase in the discount from the Average Wholesale Price (AWP) of 13% to 15% and by decreasing the dispensing fee from \$4.75 to \$4.30;
- Clinic services, **excluding federally qualified health centers, rural health clinics, and Indian Health Services**, will have their reimbursement rates reduced by 5.1%;
- Reimbursement rates for dental services, dentures, orthodontic services, nutrition items and prosthetic devices will be reduced by 6.4%;
- Inpatient hospital surgically implanted device reimbursement with aggregate charges in excess of \$5,000 on cost

outlier claims will change by requiring the supplier cost invoice to be submitted with the claims, with reimbursement to be calculated at cost plus 10%. The charges for the implantable device will be removed from calculation of the inpatient hospital claim.

The projected federal fiscal impact associated with this SPA is \$4,577,636 for Federal Fiscal Year 2011 and \$13,732,909 for Federal Fiscal Year 2012. Pages of the State Plan proposed for revision are: Attachment 4.19-A, pages 1, 2, 3, 5, and 9; Attachment 4.19-B, pages 1b (New), 4, 6, 15, 16, 20, 21, and 22. Copies of the plan revisions are available at the Department of Social Services, Division of Medical Services. Written requests for a copy of these changes, and corresponding comments, may be sent to the Division Director, Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501-2291.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF SOCIAL SERVICES: CHILD PROTECTION SERVICES:

67:14:01:09, 67:14:01:16, 67:14:01:18, 67:14:01:23, 67:14:01:25 to 67:14:01:27, inclusive, 67:14:01:29, 67:14:01:31; 67:14:11:02 to 67:14:11:03.01 inclusive; 67:14:14:02, 67:14:14:03, 67:14:14:12, 67:14:14:13; 67:14:30:01 to 67:14:30:03, inclusive, 67:14:30:06; 67:14:31:21 to 67:14:31:24, inclusive, 67:14:31:26, 67:14:31:33, 67:14:31:34, 67:14:31:37 to 67:14:31:39, inclusive, 67:14:31:41, 67:14:31:42, 67:14:31:49, 67:14:31:51, 67:14:31:52, 67:14:31:54 to 67:14:31:56.01, inclusive, 67:14:31:59 to 67:14:31:60, inclusive; 67:14:32:01, 67:14:32:05, 67:14:32:07, 67:14:32:10 to 67:14:32:11.01, inclusive, 67:14:32:11.03, 67:14:32:12, and 67:14:32:13.

History-Notice: 37 SDR 151, Feb. 14, 2011
Hearing: March 22, 2011

Filed: May 18, 2011
 Effective: June 7, 2011

David D. Wiest, Pierre, was appointed on May 20, 2011, to the **Wind Energy Competitive Advisory Task Force**, effective July 1, 2011, and shall continue until January 1, 2012.

Executive Appointments:

Paul Bachman, Harrisburg, was appointed on May 20, 2011, to the **Wind Energy Competitive Advisory Task Force**, effective July 1, 2011, and shall continue until January 1, 2012.

Tracey A. Fischer, Rapid City, was appointed on May 20, 2011, to the **Wind Energy Competitive Advisory Task Force**, effective July 1, 2011, and shall continue until January 1, 2012.

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

5-24-2011	Agriculture: Division of Resource Conservation and Forestry	Adopt rules to set the procedures for the establishment of forest insect and disease control areas and the control measures needed to address declared forest health problems and to set procedures for establishing control areas for mountain pine beetles in the Black Hills; 37 SDR 203.
5-25-2011	Bureau of Personnel: Career Service Commission	Amend rules to clarify that the definition of "immediate family" includes step-brothers and step-sisters; clarify that a "temporary employee" is not entitled to benefits or other status rights; set time limits on the length of time that an employee is designated as "severely disabled," for purposes of the disability preference used by the Bureau of Personnel when the appointing authority must interview an applicant; revise outdated terminology; clarify that falsifying a time sheet is grounds for disciplinary action even without specific intent; clarify the criteria used in a layoff, the approval process by the Bureau of Personnel, and repeals the rule allowing an appeal of a layoff; update the terminology relative to the accrual, and allowed use of vacation leave, sick leave, and personal leave; and clarify that an appointing authority is not required to give prior notice to an employee of a furlough; 37 SDR 197.

5-26-2011	Bureau of Personnel	Repeal rules governing the Governor's Senior Prescription Drug Program of 2003; 37 SDR 197.
5-26-2011	Transportation	Amend a speed zone in Sioux Falls on Interstate Highway 90 to reduce the speed limit to 65 mile per hour west of the new Marion Road interchange; amend a speed zone in Sioux Falls on Interstate Highway 229 to reduce the speed of vehicles at the approach to the Interstate 90 entrance ramps; adopt a new speed zone in Sioux Falls on Interstate Highway 229 to provide a step-down speed approaching the existing Minnehaha County Road 125; amend a speed zone in the town of Lake Norden in Hamlin County on State Highway 28 to reduce speeds adjacent to commercial and residential areas in the city limits and the curves near the lakes; and repeal a speed zone in Minnehaha County on Interstate Highway 229 that is being incorporated into the new 70:01:02:00(5); 37 SDR 209.
6-2-2011	Game, Fish and Parks	Adopt an Application for License rule to establish a rule authorizing antlerless deer licenses established by SDCL 41-6-19.8 to be issued to qualifying farmers and ranchers for use in the West River, East River, Youth, Archery, and Muzzleloading deer hunting units where at least one antlerless deer tag is available after the second lottery drawing from the previous year's East River and West River deer seasons; amend a License Forms and Fees rule to increase by \$90.00 the license fee for all nonresident big game licenses that are valid for the taking of a buck; adopt a Hunting Requirements and Prohibited Methods rule to establish air gun ammunition and performance specifications for hunting cottontail rabbit, squirrel, and species defined as a predator/varmint; amend Fall Wild Turkey Hunting Season rules to establish the number of licenses available; amend Waterfowl Hunting Seasons (Goose Hunting Season – August Management Take) rules to expand the open area to include Hanson, Lincoln, and Union counties, and remove the possession limit of 32 Canada geese; amend Black Hills Deer Hunting Season rules to establish the

		<p>number of resident and nonresident licenses available; amend West River Prairie Deer Season rules to establish the number and types of resident and nonresident licenses/tags available, and repeal the rule which designates areas where free antlerless deer licenses can be issued to farmers and ranchers for use in West River deer hunting units, add three Limited Access Units to the West River Deer Hunting Season, combining two units and revising three units; amend Archery Deer Hunting Season rules to adjust the start date for Sand Lake NWR from November 1 to the third Saturday in October, adjust the end date for Waubay Lake State Game Refuge and Waubay NWR from January 15 to December 31, add Yankton County to those restricted areas where only one single "any antlerless deer" license is valid, and eliminate antlerless deer licenses in the Black Hills Fire Protection District; amend an Archery Antelope Hunting Season rule to establish the types of resident and nonresident licenses/tags available; amend a Youth Deer Hunting Season to allow hunters to purchase up to two youth deer licenses, with only one youth deer license valid within the Black Hills Fire Protection District; amend a General Muzzleloading Deer Hunting Season rule to add Yankton County to those restricted areas where only one single "any antlerless deer" license is valid and eliminate antlerless deer licenses in the Black Hills Fire Protection District; amend Furbearer Season rules to shorten the period in which a hunter or trapper harvesting a bobcat after the close of the season must notify a conservation officer or wildlife damage specialist to within 24 hours of harvest, clarify that once a bobcat pelt has been registered and tagged by the department, the tag only pertains to raw pelts (tanned pelts or mounted bobcats will not be required to have a department tag attached); change season dates for mink, weasel, muskrat, beaver, raccoon, and bobcats, and prohibit muskrat trapping on Sand Lake National Wildlife Refuge and Waubay National Wildlife Refuge; amend a Trapping Prohibitions (Water-sets prohibited –</p>
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		exceptions) rule to allow persons West River (excluding the Black Hills Fire Protection District south of Interstate 90 and west of SD Highway 79) to use body grip or killer type traps (as water sets) within 30 feet of water to remove unwanted beavers; and amend Private Shooting Preserves rules to change all references to "operator" to "permittee" and clarify that mandatory attendance at the annual training and information meeting is only required for new preserve permittees; 37 SDR 213.
6-7-2011	Labor and Regulation	Amend Unemployment Compensation rules to repeal obsolete provisions, clarify when unemployment insurance claims are effective, and modify the requirement to search for new employment when receiving benefits; 37 SDR 213.
6-17-2011	Health: Division of Health and Medical Services	Amend rules to revise the South Dakota reportable disease list, reduce reporting of latent tuberculosis infection to high-risk individuals only, and inventory the infectious agents for submission; 37 SDR 221.
8-18-2011	Environment and Natural Resources: Board of Minerals and Environment	Update the state's existing hazardous waste rules by incorporating updated federal regulations by reference. These updates reflect changes made to the federal hazardous waste rules from July 1, 2008 through June 30, 2010. Changes include establishing an alternative set of requirements for academic laboratories; rules that address transboundary movement of hazardous wastes and spent lead-acid batteries; and technical and typographical corrections to errors in the federal rules; 37 SDR 221.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, June 7, 2011. The committee chair has set the following tentative meeting schedule for the 2011 interim: July 12, August 30, September 27, November 15, and December 12.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.

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