REGISTER

South Dakota Legislative Research Council

Volume 36 *Monday, 8:00 a.m., June 21, 2010*

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

Department of Agriculture: State Brand Board: (June 16, 2010) intends to adopt rules to issue annual permits that allow an individual to transport livestock out of the brand inspection area, but not out of the state, for recreational purposes without a brand inspection when certain conditions are met; and issue permits that allow a licensed and bonded livestock dealer to transfer ownership of livestock without an inspection if certain conditions are met and prescribed guidelines are followed. The general authority for these rules, as cited by the board, is SDCL 40-18-16, 40-20-4.1 and 40-20-26.3.

A public hearing will be held at the Governor's Inn Conference Room, 700 W. Sioux Avenue, Pierre, South Dakota, on July 28, 2010, at 1:00 p.m. CDT. Copy of the proposed rules may be obtained without charge from and written comments sent to the South Dakota State Brand Board, 209 W. Dakota Avenue, Pierre, South Dakota 57501. Copies of the proposed rules are also available on the board's website at www.sdbrandboard.com. Written comments must be received by the board no later than July 14, 2010, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3324 at least 48 hours before the hearing.

Department of Labor: State Plumbing Commission: (June 18, 2010) intends to amend rules to adopt the 2009 edition of the Uniform Plumbing Code; revise the format of the plumber examination; repeal plumbing contractors being exempt from examination based on the score of their journeyman plumber examination; and revise the fee structure for plumbing permits. The general authority for these rules, as cited by the commission, is SDCL 36-25-14, 36-25-15, and 36-25-19.1.

A public hearing will be held in the Governors Inn Conference Room, 700 West Sioux Avenue, Pierre, South Dakota, on July 22, 2010, at 1:00 p.m. Copies of the proposed rules may be obtained without charge from the State Plumbing Commission, 308 S. Pierre St., Pierre, South Dakota 57501 or by contacting the office at (605) 773-3429. A copy of the Uniform Plumbing Code may be obtained from the State Plumbing Commission, 308 S. Pierre St., Pierre, South Dakota 57501 at a cost of $110. Written comments may be sent to the State Plumbing Commission and must be received prior to July 22, 2010. Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-3429 prior to the hearing.

Department of Game, Fish and Parks: (June 18, 2010) intends to amend Waterfowl Hunting Seasons and Early Fall Canada Goose Hunting Season rules to establish season dates, requirements and restrictions, shooting hours, open area, bag and possession limits; increase the daily bag limit form 5 to 8 geese and the possession limit from 10 to 16 geese; repeal the rule which prohibits nonresidents from hunting in the counties of Beadle, Brookings, Hanson, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, and Union; and modify the boundaries of Units 1 and 2 along the Missouri River to allow

additional early season harvest of resident Canada geese; amend an East River Deer Hunting Season rule to establish season dates, requirements and restrictions, open areas, shooting hours, and number of licenses/tags available; and designate the areas where qualifying landowners/ranchers may use the two free antlerless deer tags authorized by the 2010 Legislature as being those units where licenses remain available following the second drawing; amend a Antelope Hunting Season rule to establish season dates, requirements and restrictions, open areas, shooting hours, and number of resident and nonresident licenses/tags available; and amend a National Wildlife Refuge Deer Hunting Season rule to establish season dates, requirements and restrictions, open areas, shooting hours, establish the number of resident and nonresident licenses/tags available; allow any hunter possessing a valid "antlerless deer" tag in any Sand Lake hunting unit to hunt from one-half hour before sunrise to one-half hour after sunset each day for 9 consecutive days beginning on the Saturday following Christmas; and beginning on the Saturday following Christmas, all valid tags for "any deer" in sold and unsold licenses shall become "antlerless deer" tags, respectively. The general authority for these rules, as cited by the department, is SDCL 41-2-18, 41-6-19, 41-6-21, and 41-11-5.

A public hearing will be held at the Ramkota RiverCentre, 920 West Sioux Avenue, Pierre, South Dakota, on July 8, 2010, at 2:00 p.m. (CDT). 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 p.m. 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 email to chuck.schlueter@state.sd.us. All written and email 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.

NOTICE:

The **Department of Social Services** is proposing to revise the South Dakota Medicaid State Plan concerning the Disproportionate Share Hospitals program effective June 23, 2010. The proposed changes are to amend Attachment 4.19-A of the State Plan so the program expenditures remain within the appropriated amount available for distribution. The department estimates a Federal fiscal impact associated with this amendment, a reduction of $545,242 for Federal FY 2010. 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.

The **Department of Social Services** is proposing to revise the South Dakota Medicaid State Plan concerning the Graduate Medical Education funding plan under Inpatient Hospital effective June 23, 2010. The proposed changes are to amend Attachment 4.19-A of the State Plan to reflect the State share of the pool available for distribution in State FY 2010. There is no Federal fiscal impact associated with this amendment for Federal FY 2010. 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.

The **South Dakota Lottery** is ending instant ticket game numbers 317 – Scrabble, 348 – Bingorama, and 352 – Blackjack. The last day that prizes will be paid for these games is December 11, 2010.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF GAME, FISH AND PARKS: 41:06:07:02, 41:06:07:02.01, 41:06:07:10; 41:06:08:01; 41:06:23:01, 41:06:23:02; 41:06:26:02; 41:06:27:02; 41:06:28:02; 41:06:40:01; 41:06:43:02; 41:06:47:02; 41:06:48:02; 41:06:56:01; and 41:06:59:02.

History-Notice: 36 SDR 142, March 22, 2010
Hearing: April 8, 2010
Filed: June 11, 2010
Effective: July 1, 2010

DEPARTMENT OF GAME, FISH AND PARKS: 41:02:01:03, 41:02:01:07, 41:02:01:07.01, 41:02:01:11, 41:02:01:12; 41:03:01:15; 41:06:02:06; 41:06:05:01; 41:06:16:07, 41:06:16:07.02, 41:06:16:09; and 41:09:13:01.01.

History-Notice: 36 SDR 161, April 19, 2010
Hearing: May 6, 2010
Filed: June 11, 2010
Effective: July 1, 2010

DEPARTMENT OF REVENUE AND REGULATION: SOUTH DAKOTA LOTTERY COMMISSION: 48:01:01:01; 48:01:02:01, 48:01:02:11; 48:01:05:05, 48:01:05:06; 48:03:01:01; 48:03:02:02, and 48:03:02:03.

History-Notice: 36 SDR 169, April 26, 2010
Hearing: May 21, 2010
Filed: June 11, 2010
Effective: July 1, 2010

DEPARTMENT OF SOCIAL SERVICES: ECONOMIC ASSISTANCE: 67:10:05:17; 67:13:03:21; 67:22:01:02, 67:22:01:06; 67:46:01:02; 67:46:05:32.03; 67:46:13:01 to 67:46:13:10, inclusive.

History-Notice: 36 SDR 162, April 19, 2010
Hearing: May 11, 2010
Filed: June 11, 2010
Effective: July 1, 2010

DEPARTMENT OF SOCIAL SERVICES: ECONOMIC ASSISTANCE: 67:12:08:01, 67:12:08:02, 67:12:08:03.01, 67:12:08:04, 67:12:08:04.01, 67:12:08:05, 67:12:08:07 to 67:12:08:12.01, inclusive, 67:12:08:16; 67:12:09:00, 67:12:09:01, 67:12:09:05.01, 67:12:09:05.02, 67:12:09:05.03, 67:12:09:05.06, 67:12:09:05.07, 67:12:09:05.08, 67:12:09:06, 67:12:09:08.01, 67:12:09:08.03 to 67:12:09:08.06, inclusive, 67:12:09:10 to 67:12:09:11.04, inclusive; 67:12:16:01 to 67:12:16:10, inclusive, 67:12:16:12, 67:12:16:14 to 67:12:16:26, inclusive; 67:12:19:01 to 67:12:19:11, inclusive; 67:12:20:02 to 67:12:20:04, inclusive; 67:12:21:01 to 67:12:21:09, inclusive.

History-Notice: 36 SDR 163, April 19, 2010
Hearing: May 11, 2010
Filed: June 11, 2010
Effective: July 1, 2010

DEPARTMENT OF SOCIAL SERVCIES: DIVISION OF MEDICAL SERVICES: 67:16:03:06, 67:16:03:06.01, 67:16:03:06.04; and 67:16:14:01.

History-Notice: 36 SDR 183, May 10, 2010
Hearing: May 24, 2010
Filed: June 11, 2010
Effective: July 1, 2010

DEPARTMENT OF EDUCATION: BOARD OF EDUCATION: 24:17:01:01, 24:17:01:07; 24:17:03:02, 24:17:03:06, 24:17:03:08, and 24:17:03:09.

History-Notice: 36 SDR 169, April 26, 2010
Hearing: May 17, 2010
Filed: June 14, 2010
Effective: July 6, 2010

DEPARTMENT OF LABOR: BOARD OF ACOUNTANCY: 20:75:02:12; 20:75:03:03, 20:75:03:15; 20:75:04:08; 20:75:05:01, 20:75:05:05 to 20:75:05:08, inclusive, 20:75:05:17; 20:75:07:01, 20:75:07:05, 20:75:07:07 to 20:75:07:15, inclusive, 20:75:07:17, and 20:75:07:18.

History-Notice: 36 SDR 176, May 3, 2010
Hearing: May 21, 2010
Filed: June 14, 2010
Effective: July 6, 2010

ATTORNEY GENERAL: LAW ENFORCEMENT OFFICERS STANDARDS AND TRAINING COMMISSION: 2:01:13:02.01 and 2:01:06:16.

History-Notice: 36 SDR 157, April 12, 2010
Hearing: May 12, 2010
Filed: June 16, 2010
Effective: July 6, 2010

Executive Appointments:

Rebecca Grandpre, Pierre, was reappointed on June 15, 2010, to the **Board of Social Work Examiners**, effective immediately and shall continue until June 30, 2013.

Steve Lindquist, Sioux Falls, was reappointed on June 15, 2010, to the **Board of Social Work Examiners**, effective immediately and shall continue until June 30, 2013.

David Nielsen, Lead, was appointed on June 15, 2010, to the **Board of Social Work Examiners**, to replace Jerry Pier, effective July 1, 2010, and shall continue until June 30, 2013.

Executive Orders:

The Governor has signed **Executive Order 2010-14** dated June 3, 2010. The Governor has authorized the South Dakota Division of Wildland Fire Suppression to augment its firefighting response efforts with the South Dakota National Guard for the 2010 fire season running from April 1 through October 31. The Governor exercised this authority pursuant to SDCL Chapters 33-15 Emergency Management Law and 41-20 Forestry Law.

The Governor has signed **Executive Order 2010-15** dated June 15, 2010. Due to the high water levels in the James River Valley of eastern South Dakota and under the authority of SDCL 42-8-1.2, the Governor has established a "no boating zone" for Lake Mitchell in Davison County. The Governor has also authorized Secretary Vonk of the Department of Game, Fish and Parks to add or remove other bodies of water from the list of public waters subject to boating restrictions.

The Governor has signed **Executive Order 2010-16** dated June 16, 2010. The American Recovery and Reinvestment Act provided money to the state to support "Qualified Energy Conservation Bonding Authority". Senate Bill 50, codified at SDCL 1-7-17 and 1-7-18, authorized the Governor to establish procedures for the allocation of authority to issue bonds under the federal law. This executive order establishes those procedures.

The Governor has signed **Executive Order 2010-17** dated June 18, 2010. Due to the high water levels in eastern South Dakota and under the authority of SDCL 42-8-1.2, the Governor has established a "no boating zone" for Lake Campbell in Brookings and Moody Counties. The Governor has also authorized Secretary Vonk of the Department of Game, Fish and Parks to add or remove other bodies of water from the list of public waters subject to boating restrictions.

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

6-24-2010	Transportation	Amend a speed zone in Lawrence County on U.S. Highway 14A near the north city limits of Deadwood that is being extended through an area with heavy traffic entering and leaving the highway; amend a speed zone in Union County on Interstate 29 Business Loop at Exit 15 that is being extended through an area of development; repeal a speed zone in Union County on Interstate 29 Business Loop at Exit 15 due to it being incorporated into another rule; and amend rules to authorize geographical significant site reference centers to be eligible for interstate traffic generating facility signage; 36 SDR 203.
6-29-2010	Health: Board of Massage Therapy	Amend rules to provide standards for the training schools, a third choice for a national examination, and over-all clarification of several rules; 36 SDR 199.
6-29-2010	Revenue and Regulation: Division of Insurance	Amend a Life Insurance rule to prohibit the inclusion of exclusionary riders on life insurance policies without the insured's consent and adopt External Review rules to ensure that life insurance policyholders are aware of any policy changes that would affect them and have the opportunity to reject changes proposed by their insurance company; 36 SDR 203.
7-6-2010	Agriculture: Agronomy Services	Amend Apiary rules regarding entrance permits, inspections, and contested case procedures; 36 SDR 207.
7-8-2010	Game, Fish and Parks	Amend Waterfowl Hunting Seasons and Early Fall Canada Goose Hunting Season rules to establish season dates, requirements and restrictions, shooting hours, open area, bag and possession limits; increase the daily bag limit form 5 to 8 geese and the possession limit from 10 to 16 geese; repeal the rule which prohibits nonresidents from hunting in the counties of Beadle, Brookings, Hanson, Kingsbury, Lake,

		Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, and Union; and modify the boundaries of Units 1 and 2 along the Missouri River to allow additional early season harvest of resident Canada geese; amend an East River Deer Hunting Season rule to establish season dates, requirements and restrictions, open areas, shooting hours, and number of licenses/tags available; and designate the areas where qualifying landowners/ranchers may use the two free antlerless deer tags authorized by the 2010 Legislature as being those units where licenses remain available following the second drawing; amend a Antelope Hunting Season rule to establish season dates, requirements and restrictions, open areas, shooting hours, and number of resident and nonresident licenses/tags available; and amend a National Wildlife Refuge Deer Hunting Season rule to establish season dates, requirements and restrictions, open areas, shooting hours, establish the number of resident and nonresident licenses/tags available; allow any hunter possessing a valid "antlerless deer" tag in any Sand Lake hunting unit to hunt from one-half hour before sunrise to one-half hour after sunset each day for 9 consecutive days beginning on the Saturday following Christmas; and beginning on the Saturday following Christmas, all valid tags for "any deer" in sold and unsold licenses shall become "antlerless deer" tags, respectively; 36 SDR 213.
7-22-2010	Labor: State Plumbing Commission	Amend rules to adopt the 2009 edition of the Uniform Plumbing Code; revise the format of the plumber examination; repeal plumbing contractors being exempt from examination based on the score of their journeyman plumber examination; and revise the fee structure for plumbing permits; 36 SDR 213.
7-28-2010	Agriculture: State Brand Board	Adopt rules to issue annual permits that allow an individual to transport livestock out of the brand inspection area, but not out of the state, for recreational purposes without a brand inspection when certain conditions are met; and issue permits that allow a licensed and bonded livestock dealer to transfer ownership of livestock without an inspection if certain

		conditions are met and prescribed guidelines are followed; 36 SDR 213.
8-25-2010	Military and Veteran Affairs	Amend a rule regarding furloughs for residents of the Michael J. Fitzmaurice South Dakota Veterans Home; 36 SDR 199.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, July 20, 2010, in Room 414, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2010 interim: August 31, September 28, November 17, and December 20.

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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