

REGISTER

South Dakota Legislative Research Council



Volume 35

Monday, 8:00 a.m., July 21, 2008

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

Department of Game, Fish and Parks:

(July 18, 2008) intends to amend Wildlife Preservation Facility rules to establish a "wildlife preservation facility" defined to include persons/entities that hold a South Dakota sales tax license to operate a business that receives, possesses or has custody of any wild animal belonging to another person for the purpose of picking, skinning, cleaning, freezing, processing or storage; establish requirements for a "wildlife preservation facility" pertaining to record keeping, record retention and issuance of receipts for all wild animals leaving such facilities; and establish authority for department personnel to inspect wildlife preservation facilities, wild animals and records required to be maintained and held on the premises; amend Transportation of Game rules to establish a new rule section setting forth requirements for gifting of game and defining what is meant by "gift;" revise game bird transportation and packaging requirements to allow removal of plumage on game birds (except wild turkeys) after they leave a "wildlife preservation facility" with the required receipt or a possessor's license, clarify that game birds may not be transported by unlicensed individuals, and create an allowance and tagging requirements for game birds, except wild turkey, to be transported by another licensed individual to a "wildlife preservation facility;" except gifts of game from the requirement for a game transportation permit; and revise the identification requirements pertaining to transportation of big game to create an allowance and requirements for big game parts

to be transported from a person's domicile to another location; amend Waterfowl Hunting Seasons (Duck Hunting Season) rules to establish season dates, daily bag and possession limits for duck, coot and merganser, which include increasing the daily bag limit for Wood Duck from 2 to 3; amend Waterfowl Hunting Seasons (Goose Hunting Season) rules to establish season dates, daily bag and possession limits for Canada geese, light geese and white-fronted geese; remove Perkins County from Unit 1 and include with Unit 2; change the opening date for the Canada goose hunting season in Unit 2 from the fourth Saturday of October to the Saturday closest to November 1 (November 1, 2008); amend Waterfowl Hunting Season (Roadways Closed to Hunting) rules to open road rights-of-way around Sand Lake National Wildlife Refuge to hunting that once were closed in the "spaced Blind Areas," except for the five mile stretch along Brown County Highway 16 near the refuge headquarters; and amend General Provisions (Fish) rules to establish a new rule section setting forth requirements for gifting of fish and defining what is meant by "gift;" revise requirements pertaining to transportation and storage of fish to reflect the new emphasis on "domicile" in the revised statutory definition of "resident," and incorporate statutory tagging requirements; and except gifts of fish from the requirement for a fish transportation permit. The general authority for these rules, as cited by the department, is SDCL 41-2-18, 41-6-22, 41-11-5, and 41-14-14.

A public hearing will be held at Ft. Sisseton (South Barracks), 11907 434th Avenue, Lake City, South Dakota, on August 7, 2008, 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 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.

Department of Environment and Natural Resources: Board of Minerals and Environment: (July 18, 2008) intends to amend asbestos training and certification requirements and state approval rules to allow a longer timeframe for certified asbestos workers to renew required certification; to clarify notification and documentation requirements for asbestos training providers that seek accreditation for the training services; and to require annual training to take place in South Dakota and an annual approval for accredited asbestos training providers. The general authority for these rules, as cited by the department, is SDCL 34-44-3, 34-44-11, 34-44-16, 34-44-19, and 34-44-24.

A public hearing will be held at the Floyd Matthew Environmental Education and Training Center, 523 East Capitol Avenue, Pierre, South Dakota on September 18, 2008, at 10:30 a.m. Copies of the proposed rules may be obtained from and written comments sent to PMB 2020, Department of Environment and Natural Resources, Waste Management Program, 523 E. Capitol, Pierre, South Dakota 57501-3182. Material sent by mail must reach the department by September 18, 2008, 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 Jim Wendte at (605) 773-3153 at least 48 hours before the public hearing.

NOTICE:

The **Medicaid Pharmaceutical and Therapeutics Committee** will be meeting on Friday, September 5, 2008, at 1:00 p.m. at Minerva's Restaurant, 301 S. Phillips Avenue, Sioux Falls, South Dakota. A copy of the agenda is available at: <http://www.hidsdmedicaid.com/>. For additional information contact the Department of Social Services, Division of Medical Services at (605) 773-3495.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Robert N. Duxbury, Wessington, was reappointed on July 15, 2008, to the **Board of Minerals and Environment**, effective immediately and shall continue until June 30, 2012.

Jeffory A. Erickson, Sioux Falls, was reappointed on July 15, 2008, to the **State Banking Commission**, effective immediately and shall continue until June 30, 2011.

Doyle Estes, Rapid City, was reappointed on July 15, 2008, to the **State Banking Commission**, effective immediately and shall continue until June 30, 2011.

Bruce Hintz, Lead, was reappointed on July 15, 2008, to the **South Dakota Snowmobile Advisory Council**, effective immediately and shall continue until June 30, 2011.

John L. Lillibridge, Burke, was reappointed on July 15, 2008, to the **State Banking Commission**, effective immediately and shall continue until June 30, 2011.

Larry Nelson, Rapid City, was reappointed on July 15, 2008, to the **South Dakota Aeronautics Commission**, effective immediately and shall continue until June 30, 2013.

Jane Rasmussen, Sisseton, was reappointed on July 15, 2008, to the **State Arts Council**, effective immediately and shall continue until June 30, 2011.

Holly Roe-Johnson, Hosmer, was appointed on July 15, 2008, to the **State Board of Veterinary Medical Examiners**, to replace Dr. William Lias, effective July 14, 2008, and shall continue until June 30, 2011.

James L. Walker, Aberdeen, was appointed on July 15, 2008, to the **State Arts Council**, to replace Donna Fjelstad, effective July 15, 2008, and shall continue until June 30, 2011.

Todd Wilkinson, DeSmet, was reappointed on July 15, 2008, to the **South Dakota Snowmobile Advisory Council**, effective immediately and shall continue until June 30, 2011.

Mark Anderson, Sioux Falls, was appointed on July 16, 2008, to the **South Dakota Underground Pipeline Task Force**, effective July 15, 2008, and shall continue until December 1, 2008.

Pete Bullene, Watertown, was appointed on July 16, 2008, to the **South Dakota Underground Pipeline Task Force**, effective July 15, 2008, and shall continue until December 1, 2008.

Dennis Davis, Sioux Falls, was appointed on July 16, 2008, to the **South Dakota Underground Pipeline Task Force**, effective July 15, 2008, and shall continue until December 1, 2008.

Gary Hanson, Pierre, was appointed on July 16, 2008, to the **South Dakota Underground Pipeline Task Force**, effective July 15, 2008, and shall continue until December 1, 2008.

Judith E. Hines, Brandon, was reappointed on July 16, 2008, to the **South Dakota Crime Victims' Compensation Commission**, effective immediately and shall continue until June 30, 2011.

Daniel Holli, Belfield, North Dakota, was appointed on July 16, 2008, to the **South Dakota Underground Pipeline Task Force**, effective July 15, 2008, and shall continue until December 1, 2008.

Troy Styer, Wolsey, was appointed on July 16, 2008, to the **South Dakota Underground Pipeline Task Force**, effective July 15, 2008, and shall continue until December 1, 2008.

Gordon Woods, Pierre, was appointed on July 16, 2008, to the **South Dakota Underground Pipeline Task Force**, effective July 15, 2008, and shall continue until December 1, 2008.

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

7-29-2008	Public Safety: Office of Weights and Measures	Amend rules to adopt the 2005 editions of the National Institute of Standards and Technology (NIST) handbooks 44, 133 and 130; to modify the fee structure for conducting heavy scales inspections, retail device inspections, and calibrations in the State metrology laboratory; and to adopt the 2005 Annual Book of the American Society for Testing and Materials Standards for petroleum quality; 34 SDR 316.
7-29-2008	Health: Board of Chiropractic Examiners	Amend or adopt rules to clarify requirements for declaratory rulings; approve accreditation from the Council of Chiropractic Education International; update application and reciprocity requirements; update renewal application requirements; update actions which may warrant sanctions; clarify procedures for formal hearings and sanctions; clarify chiropractic radiography application process and procedures for formal hearing; update addresses to obtain peer review reference guides; and establish rules for chiropractic assistants; 35 SDR 9.
7-30-2008	Social Services: Economic Assistance	Amend Low Income Energy Assistance Program (LIEAP) rules to reduce the amount payable under LIEAP when a household's rent includes the cost of heat; allow the Department to make adjustments to a household's LIEAP benefit amount until the benefit is paid; and extend the time during which a utility company can use meter readings for energy supplied to households eligible for LIEAP assistance; amend an Emergency Crisis Intervention Program (ECIP) rule to extend the deadline for applying for funds under ECIP; 34 SDR 343.
7-30-2008	Social Services: Medical Services	Delete from rules and move to the Department's website the lists of covered services, procedure codes, and rates of payment for the following: DRG-exempt hospital psychiatric units, outpatient laboratory services, outpatient surgical procedures provided by a hospital, surgical procedures provided by an ambulatory surgical center, medical equipment, mental health services provided by an independent practitioner, nutritional therapy, nutritional supplements, enteral nutritional therapy, parenteral

		nutritional therapy, and diabetes education services and to move into rule the procedures currently being used by the Department which allows a provider to request a review of an established rate for possible adjustment or to request the inclusion or exclusion of a particular procedure code; 35 SDR 10.
7-31-2008	Revenue and Regulation: Business Tax	Amend rules to add the phrase "products transferred electronically;" update laws regulation is based on; update filing requirements; repeal a definition that is now in statute; repeal outdated regulations; comply with the Streamlined Sales Tax Agreement; and repeal outdated and unnecessary regulations; 35 SDR 9.
7-31-2008	Revenue and Regulation: Division of Motor Vehicles	Repeal rules that are no longer necessary because South Dakota joined a national program called the Unified Carrier Registration (UCR); repeal rules to address law changes; repeal a rule no longer needed and add new rules concerning the initial and renewal of staggered licensing of boat dealer and dealers; amend requirements in conducting of business for dealers within the state; repeal rules no longer needed concerning dealer permit and create a new rule to address all the permits; repeal unnecessary rules; and repeal outdated and unnecessary regulations; 35 SDR 9.
8-7-2008	Game, Fish and Parks	Amend Wildlife Preservation Facility rules to establish a "wildlife preservation facility" defined to include persons/entities that hold a South Dakota sales tax license to operate a business that receives, possesses or has custody of any wild animal belonging to another person for the purpose of picking, skinning, cleaning, freezing, processing or storage; establish requirements for a "wildlife preservation facility" pertaining to record keeping, record retention and issuance of receipts for all wild animals leaving such facilities; and establish authority for department personnel to inspect wildlife preservation facilities, wild animals and records required to be maintained and held on the premises; amend Transportation of Game rules to establish a new rule section setting forth requirements for gifting of game and

	<p>defining what is meant by "gift;" revise game bird transportation and packaging requirements to allow removal of plumage on game birds (except wild turkeys) after they leave a "wildlife preservation facility" with the required receipt or a possessor's license, clarify that game birds may not be transported by unlicensed individuals, and create an allowance and tagging requirements for game birds, except wild turkey, to be transported by another licensed individual to a "wildlife preservation facility;" except gifts of game from the requirement for a game transportation permit; and revise the identification requirements pertaining to transportation of big game to create an allowance and requirements for big game parts to be transported from a person's domicile to another location; amend Waterfowl Hunting Seasons (Duck Hunting Season) rules to establish season dates, daily bag and possession limits for duck, coot and merganser, which include increasing the daily bag limit for Wood Duck from 2 to 3; amend Waterfowl Hunting Seasons (Goose Hunting Season) rules to establish season dates, daily bag and possession limits for Canada geese, light geese and white-fronted geese; remove Perkins County from Unit 1 and include with Unit 2; change the opening date for the Canada goose hunting season in Unit 2 from the fourth Saturday of October to the Saturday closest to November 1 (November 1, 2008); amend Waterfowl Hunting Season (Roadways Closed to Hunting) rules to open road rights-of-way around Sand Lake National Wildlife Refuge to hunting that once were closed in the "spaced Blind Areas," except for the five mile stretch along Brown County Highway 16 near the refuge headquarters; and amend General Provisions (Fish) rules to establish a new rule section setting forth requirements for gifting of fish and defining what is meant by "gift;" revise requirements pertaining to transportation and storage of fish to reflect the new emphasis on "domicile" in the revised statutory definition of "resident," and incorporate statutory tagging requirements; and except gifts of fish from the requirement</p>
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		for a fish transportation permit; 35 SDR 15.
9-18-2008	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, 2006 through June 30, 2007. Changes include establishing a standardized permit for hazardous waste storage facilities; and a variety of corrections that encompass printing omissions, typographical errors, misspellings and erroneous or missing citations and references throughout the rules; 34 SDR 278.
9-18-2008	Environment and Natural Resources: Board of Minerals and Environment	Amend asbestos training and certification requirements and state approval rules to allow a longer timeframe for certified asbestos workers to renew required certification; to clarify notification and documentation requirements for asbestos training providers that seek accreditation for the training services; and to require annual training to take place in South Dakota and an annual approval for accredited asbestos training providers; 35 SDR 16.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, August 19, 2008, in LCR 1 and 2, Third Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2008 interim: September 23, December 2, and January 12, 2009.

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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