

REGISTER



South Dakota Legislative Research Council

Volume 37

Monday, 8:00 a.m., September 20, 2010

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

Department of Health: Board of Dentistry: (September 13, 2010) intends to amend rules to change from regulating by the modality of the delivery of the sedative or anesthetic to regulating based on the level of sedation; define four levels of sedation – minimal, moderate, deep, and general anesthesia; and require dentists who are not specialists to disclaim as much if they advertise services in a recognized specialty area and places certain requirements on advertising in non-recognized specialty areas. The general authority for these rules, as cited by the board is SDCL 36-6A-14, 36-6A-50, and 36-6A-55.

A public hearing will be held in the South Dakota High School Activities Association Large Conference Room, 804 N. Euclid Ave., Pierre, South Dakota, on October 22, 2010, at 8:30 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Dentistry, P.O. Box 1079, 105 S. Euclid, Suite C, Pierre, South Dakota 57501. Material sent by mail must reach the Board by October 21, 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) 224-1282 at least 48 hours before the hearing.

Department of Social Services: Division of Adult Services and Aging: (September 16, 2010) intends to adopt Hospice Services rules – adopt definitions, identify eligibility

requirements for providers and recipients, outline covered service limitations, define notice requirements and reimbursement policy, and clarify claim submission requirements. The general authority for these rules, as cited by the department, is SDCL 28-6-1.

A public hearing will be held in Conference Room #2, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on October 13, 2010, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Laura Ringling, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Ringling may be contacted by telephone at (605) 773-3165. Written comments must be received by October 25, 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) 773-3165 at least 48 hours before the hearing.

Bureau of Administration: (September 16, 2010) intends to amend rules to update statutory citations related to the requirement that certain state publications bear an inscription listing the publisher, the number of copies published, and the approximate cost of publication per copy. The general authority for these rules, as cited by the bureau, is SDCL 5-18D-15.

A public hearing will be held in Conference Room #3, Kneip Building, 700 Governors Drive, Pierre, South Dakota, on October 14, 2010, at 2:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to the Bureau of Administration, State

Capitol Building, 500 East Capitol, Pierre, South Dakota 57501-1234. Written comments must be received by October 25, 2010, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the office can make arrangements are asked to call (605) 773-3688 at least 48 hours before the hearing.

Department of Game, Fish and Parks:

(September 17, 2010) intends to amend License Forms and Fees rules to add a Custer State Park (CSP) "any mountain lion" hunting license and establish the fee for the license at \$300 and increase the fee for a regular statewide mountain lion hunting license from \$10 to \$20; amend a Hunting Requirements and Prohibited Methods rule to remove the prohibition against using dogs and electronic calls when hunting mountain lions; amend CSP Restrictions rules to establish an eligibility requirement prohibiting a person who received a CSP "any mountain lion" license in any of the preceding nine years from applying for a license for the current CSP mountain lion season; and amend Mountain Lion Hunting Season rules to establish season dates, open area, harvest limits, requirements and restrictions, number of resident licenses available, and increase the total mountain lion harvest limit outside of CSP from 40 to 45 mountain lions and increase the female harvest limit outside of CSP from 25 to 30 female mountain lions; limit residents to one mountain lion hunting license per year; transfer language pertaining to the use of electronic calls in hunting mountain lions contained in the current mountain lion hunting season rule to the Hunting Requirements and Prohibited Methods Chapter; establish a new mountain lion hunting season within the fenced boundaries of CSP to take place from January 1 through March 31 of each year; establish the number of licenses available to state residents at 5 at a cost per license of \$300; and provide for other restrictions for the CSP mountain lion hunting license. The general authority for these rules, as cited by the department, is SDCL 41-2-18, 41-6-10, 41-6-18.4, 41-6-19.6, 41-17-1.1, and

41-17-18.

A public hearing will be held at the Spearfish Canyon Lodge, 10619 Roughlock Falls Rd., Lead, South Dakota, on October 7, 2010, 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 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 Agriculture** has withdrawn the Raw Milk Assessment Fee rule that was filed on August 11, 2009, 37 SDR 29.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF TRANSPORTATION:

70:01:02:09 (4).

History-Notice: 37 SDR 1, July 6, 2010

Hearing: July 22, 2010

Filed: September 7, 2010

Effective: September 27, 2010

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

9-28-2010	Education: Board of Education	Amend rules to provide valid and reliable testing procedures for any school district choosing to write their own end-of-course exams; 37 SDR 35.
9-30-2010	Public Safety: South Dakota 911 Coordination Board	Adopt a rule to establish alternative compliance methods for the requirement contained in ARSD 50:02:04:02 which requires all public safety answering points to be staffed with two 9-1-1 telecommunicators on duty at all times; 37 SDR41.
10-7-2010	Revenue and Regulation: Real Estate Commission	Amend rules to permit a licensee to receive advance compensation if the compensation is placed in the broker's trust account until completion of the service performed, authorize the commission to issue consent orders, define auction terms, establish listing requirements, advertising guidelines and procedures when selling real estate at auction, require auctioneers to retain certain records, prohibit auctioneers from performing certain acts, distinguish licensees who are permitted to conduct auctions, and allow an inactive nonresident licensee to renew without filing a certification of licensure from the licensee's resident state; 37 SDR 47.
10-7-2010	Game, Fish and Parks	Amend License Forms and Fees rules to add a Custer State Park (CSP) "any mountain lion" hunting license and establish the fee for the license at \$300 and increase the fee for a regular statewide mountain lion hunting license from \$10 to \$20; amend a Hunting Requirements and Prohibited Methods rule to remove the prohibition against using dogs and electronic calls when hunting mountain lions; amend CSP Restrictions rules to establish an eligibility requirement prohibiting a person who received a CSP "any mountain lion" license in any of the preceding nine years from applying for a license for the current CSP mountain lion season; and amend Mountain Lion Hunting Season rules to establish season dates, open area, harvest limits, requirements

		and restrictions, number of resident licenses available, and increase the total mountain lion harvest limit outside of CSP from 40 to 45 mountain lions and increase the female harvest limit outside of CSP from 25 to 30 female mountain lions; limit residents to one mountain lion hunting license per year; and transfer language pertaining to the use of electronic calls in hunting mountain lions contained in the current mountain lion hunting season rule to the Hunting Requirements and Prohibited Methods Chapter; establish a new mountain lion hunting season within the fenced boundaries of CSP to take place from January 1 through March 31 of each year; establish the number of licenses available to state residents at 5 at a cost per license of \$300; and provide for other restrictions for the CSP mountain lion hunting license; 37 SDR 58.
10-13-2010	Social Services: Division of Adult Services and Aging	Adopt Hospice Services rules – adopt definitions, identify eligibility requirements for providers and recipients, outline covered service limitations, define notice requirements and reimbursement policy, and clarify claim submission requirements; 37 SDR 57.
10-14-2010	Education: Professional Administrators Practices and Standards Commission	Amend a rule to allow the Professional Administrators Practices and Standards Commission to address ethical violations occurring three years prior to the filing of a complaint; 37 SDR 41.
10-14-2010	Bureau of Administration	Amend rules to update requirements related to the fee for placement on the state bidders list, and to establish specifications and requirements for state government purchases of environmentally preferable products; 37 SDR 53.
10-14-2010	Bureau of Administration	Amend rules to update statutory citations related to the requirement that certain state publications bear an inscription listing the publisher, the number of copies published, and the approximate cost of publication per copy; 37 SDR 57.
10-22-2010	Health: Board of Dentistry	Amend rules to change from regulating by the modality of the delivery of the sedative or anesthetic to regulating based on the level of sedation; define four levels of sedation – minimal, moderate, deep, and general anesthesia; and require dentists who are not

		specialists to disclaim as much if they advertise services in a recognized specialty area and places certain requirements on advertising in non-recognized specialty areas; 37 SDR 57.
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RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, September 28, 2010, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor, of the State Capitol. Other DDN sites will be: Aberdeen – NSU, 1200 S. Jay Street, Room Lib117; Huron – DOT, 901 Dakota St.; Mitchell – MTI, 1800 E. Spruce, Room TC155; Rapid City – DOT, 2300 Eglin St.; Sioux Falls – University Center, 2205 Career Ave., Room 282 S, and Yankton – DOT 1306 W. 31st St. The committee chair has set the following tentative meeting schedule for the 2010 interim: 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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