

REGISTER

South Dakota Legislative Research Council



Volume 34

Monday, 8:00 a.m., September 24, 2007

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

Department of Revenue and Regulation: South Dakota Lottery Commission: (September 17, 2007) intends to amend a rule to adopt the Multi-State Lottery Association Hot Lotto Game Group rules that were approved on August 28, 2007. The general authority for this rule, as cited by the commission, is SDCL 42-7A-21.

A public hearing will be held in Room 412, 4th floor, State Capitol, Pierre, South Dakota, on October 19, 2007, at 9:45 a.m. Copies of the proposed rule may be obtained from and written comments sent to the Department of Revenue & Regulation, Legal Division, 445 East Capitol Avenue, Pierre, South Dakota 57501-3185. Copies of the rules are also available at the department's website:

<http://www.state.sd.us/drr2/SizzlerRule.pdf>.

Written comments must be received by October 17, 2007, 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) 773-4701 at least forty-eight hours before the hearing

Department of Corrections: (September 17, 2007) intends to amend rules to update procedures on deposits into an inmate's account and the handling of an inmate's frozen account; update who is allowed to visit an inmate, the conduct of visitors, and attorney-client visits; update how incoming correspondence that is not allowed is handled; change how an inmate's sentence is credited for time spent while on

escape; and clarify that an inmate's minimum initial parole date is sixty (60) days from the date received at a Department of Corrections' facility. The general authority for these rules, as cited by the department, is SDCL 1-15-20, 24-7-3, 24-8-5.

A public hearing will be held at 10:00 a.m. on October 10, 2007, in the Community Multi-Purpose Room, Solem Public Safety Center, 3200 E. Highway 34, Pierre, South Dakota. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Corrections, 3200 E. Highway 34, c/o 500 East Capitol, Pierre, South Dakota 57501-5070. Written comments must be received by October 9, 2007, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the board can make arrangements are asked to call (605) 773-2956 at least 48 hours before the hearing.

Public Utilities Commission: One-Call Notification Board: (September 21, 2007) intends to amend rules to update Routine Locate requests to reflect the technological changes in processing these requests and reflect changes in the statute and to define Service Lateral; clarify the method of input for facility operator information and change the approval process from the vendor operating the Center to the South Dakota One Call Notification Board; clarify that the facility operator must accept notification of excavations from the center; require that all underground facilities installed after January 1, 2008, must be locatable within eighteen inches, horizontally, from the exterior sides of the marked facility; clarify the period in which the billing for a ticket transmission may

be disputed; allow for the use of mile marker references on state and federal highways to be used as a means to identify the location of the excavation site when initiating a routine locate request, a planned excavation locate request, and an informational locate request; establish minimum marking standards for all underground facilities and specific standards for marking service laterals on all underground facilities; and clarify the processes and procedures of the vendor operating the one-call system to insure that the rules reflect the technologies currently available from the one-call system. The general authority for these rules, as cited by the board, is SDCL 49-7A-4.

A public hearing will be held in Room 413, 4th Floor, State Capitol, Pierre, South Dakota, on October 23, 2007, at 1:00 p.m. Copies of the proposed rules may be obtained without charge from South Dakota One-Call Notification Board, 1012 North Sycamore Avenue, Sioux Falls, SD 57110-5747 or at their Web site at <http://www.sdonecall.com>. Written comments may be sent to the One-Call Notification Board, c/o South Dakota Public Utilities Commission, 500 East Capitol, Pierre, South Dakota 57501-5070. Material sent by mail must be received by the Public Utilities Commission prior to the hearing to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the board can make arrangements are asked to call (605) 339-0529 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF HEALTH:
44:66:01:01 and 44:66:02:03.

History-Notice: 33 SDR 217, May 29, 2007
Hearing: June 27, 2007
Filed: August 21, 2007
Effective: September 10, 2007

DEPARTMENT OF REVENUE AND REGULATION: DIVISION OF INSURANCE: 20:06:21:01, 20:06:21:02.01, 20:06:21:20, 20:06:21:74, 20:06:21:76, 20:06:21:79, and 20:06:21:81.

History-Notice: 34 SDR 23, July 16, 2007
Hearing: August 2, 2007
Filed: August 21, 2007
Effective: September 10, 2007

DEPARTMENT OF TRANSPORTATION:
70:08:01:03 and 70:08:01:04.

History-Notice: 34 SDR 31, July 23, 2007
Hearing: August 13, 2007
Filed: August 21, 2007
Effective: September 10, 2007

Executive Order:

The Governor has signed **Executive Order 2007-21** dated September 7, 2007, which declares that a state of emergency exists statewide, and that the transportation of diesel, ethanol, gasoline and propane within South Dakota shall be exempt from 49 CFR Part 395, otherwise known as the federal hours of service regulations. The executive order shall expire upon conclusion of the emergency, but no later than midnight, October 10, 2007.

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

10-3-2007	Environment and Natural Resource: Water Management Board	Amend rules to Surface Water Quality Standards – add a definition for "Epilimnion"; update references to reflect the most current version of the Code of Federal Regulations; designate that the dissolved oxygen criteria applies only to the epilimnion of a waterbody that has stratified, or to any location in an unstratified waterbody; change the pH criteria to reflect the intent of the Environmental Protection Agency's pH criteria document; and add beneficial uses to the low flow rates for low quality fishery waters; Uses assigned to lakes – in Day County, uses of certain lakes – Bitter Lake is recommended to be assigned the beneficial uses of warmwater permanent fish life propagation waters, immersion recreation water, limited contact waters, and fish and wildlife propagation, recreation and stock watering waters; Uses assigned to streams – Minnesota River's tributaries' uses – change the beneficial use of Florida Creek, also known as Cobb Creek, from a coldwater marginal fish life propagation waters to warmwater permanent fish life propagation waters; and James River and certain tributaries' uses – the warmwater marginal fish life propagation and limited contact waters beneficial uses are being recommended for Pony Creek in Hutchinson County; 34 SDR 82.
10-9-2007	Social Services: Child Protection Services	Amend rules relating to the operation of the central registry by the Division of Child Protection Services to specify that the term "central registry" refers to parents, guardians, and custodians who have abused or neglected children; specify that when the Department receives a report of a suspected case of child abuse or neglect the Department will obtain evidence to assess the accuracy of the allegations contained in the report; allow documentation to be in electronic format; clarify that the identifying information placed into the central registry is collectively referred to as a record; expand the examples of crimes (to include child abuse or neglect; sex offenses; possession, solicitation, manufacture, or distribution of child pornography; or incest)

		<p>that allow for placement of a record into the central registry if an individual is found guilty of such crime; after the Department investigates and substantiates a report and at least 30 days before a record is placed on the central registry, require the Department to send a written notice by certified mail to the individual informing the individual of the Department's intent to place the record into the central registry; specify that the 30-day period begins on the date the individual receives the notice or on the last day the post office attempts delivery; remove language from existing rules and repeal rules that refer to an informal review process; if a fair hearing results in finding for the individual, limit Department actions to either correcting the inaccurate information or removing the record; allow an individual to request removal of a record after five years if the record has been on the central registry for at least five years and placement into the central registry was the result of a substantiated report of child abuse or neglect, a court finding of child abuse or neglect, or because the individual was found guilty of a crime committed against a child; require the individual to prove by a preponderance of the evidence that the record should be removed; specify the types of information the Department reviews when considering whether to remove a record from the central registry after a period of five years; provide notice to the individual informing the individual of the Department's decision to remove a record; allow an individual to request a hearing if the request is denied; if a request to remove a record is denied, require the individual to wait two years before making a subsequent request to have a record removed; and specify those individuals who are prohibited from requesting removal of a record from the central registry; 34 SDR 81.</p>
<p>10-10-2007</p>	<p>Corrections</p>	<p>Amend rules to update procedures on deposits into an inmate's account and the handling of an inmate's frozen account; update who is allowed to visit an inmate, the conduct of visitors, and attorney-client visits; update how incoming correspondence that is not allowed is handled;</p>

		change how an inmate's sentence is credited for time spent while on escape; and clarify that an inmate's minimum initial parole date is sixty (60) days from the date received at a Department of Corrections' facility; 34 SDR 87.
10-15-2007	Health: Board of Pharmacy	Amend and adopt rules to establish criteria to permit use of Board of Pharmacy registered technicians to operate a retail telepharmacy when connected to a licensed South Dakota central pharmacy using advanced technology, automation and design, and will establish criteria to permit a licensed South Dakota hospital pharmacy with 24-hour services to provide limited or part-time pharmacy services to small hospitals; 34 SDR 81.
10-19-2007	Revenue and Regulation: Lottery Commission	Amend rules to adopt the Multi-State Lottery Association Hot Lotto Game Group rules that were approved on August 28, 2007; 34 SDR 87.
10-23-2007	Public Utilities Commission: One-Call Notification Board	Amend rules to update Routine Locate requests to reflect the technological changes in processing these requests and reflect changes in the statute and to define Service Lateral; clarify the method of input for facility operator information and change the approval process from the vendor operating the Center to the South Dakota One Call Notification Board; clarify that the facility operator must accept notification of excavations from the center; require that all underground facilities installed after January 1, 2008, must be locatable within eighteen inches, horizontally, from the exterior sides of the marked facility; clarify the period in which the billing for a ticket transmission may be disputed; allow for the use of mile marker references on state and federal highways to be used as a means to identify the location of the excavation site when initiating a routine locate request, a planned excavation locate request, and an informational locate request; establish minimum marking standards for all underground facilities and specific standards for marking service laterals on all underground facilities; and clarify the processes and procedures of the vendor operating the one-call system to insure that the rules reflect the technologies currently

		available from the one-call system; 34 SDR 87.
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RULES REVIEW COMMITTEE MEETINGS

The next regular meeting of the Interim Rules Review Committee will be held Thursday, September 27, 2007, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2007 interim: December 4, and January 7, 2008.

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.