

# REGISTER



## South Dakota Legislative Research Council

Volume 34

Monday, 8:00 a.m., October 1, 2007

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

**Department of Social Services:** (September 27, 2007) has filed a rule amendment to establish new parameters for the monthly gross and net income eligibility standards for food stamp households and to establish a household's maximum food stamp allotment based on the established thrifty food plan.

This rule is adopted under the procedure provided in SDCL 1-36-20. This procedure permits adoption of a federally mandated rule without following the procedures set forth in SDCL 1-26-4 to 1-26-6, inclusive.

**NOTICE:** The **Department of Health** has filed the annual report of the activities of the Tobacco Control Program as required by SDCL-34-46-11.

A copy of the report is on file with the Legislative Research Council and may be copied or reviewed during normal business hours. The report can also be accessed via the Department of Health's website at [doh.sd.gov/Tobacco/](http://doh.sd.gov/Tobacco/).

### FILINGS IN THE SECRETARY OF STATE'S OFFICE:

#### DEPARTMENT OF HEALTH:

44:06:01:01, 44:06:01:06; 44:06:02:02; 44:06:04:04; 44:06:05:01; and 44:06:06:07.

History-Notice: 34 SDR 41, July 30, 2007  
Hearing: August 22, 2007

Filed: September 27, 2007  
Effective: October 17, 2007

**DEPARTMENT OF HEALTH: BOARD OF MEDICAL AND OSTEOPATHIC EXAMINERS:** 20:47:06:01 to 20:47:06:06, inclusive; 20:52:01:01 to 20:52:01:11, inclusive; 20:63:03:03; 20:64:04:03; and 20:66:01:01 to 20:66:01:04, inclusive.

History-Notice: 34 SDR 61, August 20, 2007  
Hearing: September 11, 2007  
Filed: September 27, 2007  
Effective: October 17, 2007

**DEPARTMENT OF REVENUE AND REGULATION: PROPERTY AND SPECIAL TAXES:** 64:03:01:02.01; 64:04:01:20; and 64:44:01:01.

History-Notice: 34 SDR 56, August 13, 2007  
Hearing: September 6, 2007  
Filed: September 27, 2007  
Effective: October 17, 2007

**DEPARTMENT OF SOCIAL SERVICES: DIVISION OF ECONOMIC ASSISTANCE:** 67:10:05:03 and 67:10:05:05.

History-Notice: 34 SDR 49, August 6, 2007  
Hearing: August 24, 2007  
Filed: September 27, 2007  
Effective: October 17, 2007

### Executive Appointments:

**Kelly Wheeler**, Custer, was reappointed on September 5, 2007, to the **Board of Water and Natural Resources**, effective immediately and shall continue until July 1, 2011.

**Dale Kennedy**, Beresford, was reappointed on September 5, 2007, to the **Board of Water and Natural Resources**, effective immediately and shall continue until July 1, 2011.

**Brian Gosch**, District 32, was appointed on September 21, 2007, to the **South Dakota House of Representatives**, to serve the remainder of former Representative Alan Hanks' term, effective immediately.

**Brigadier General Steven R. Doohen**, Hartford, was appointed on September 24, 2007, to the position of **Secretary of the Department of Military and Veterans Affairs**, effective

September 17, 2007, and shall continue at the pleasure of the Governor.

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**

<p>10-3-2007</p>	<p>Environment and Natural Resource: Water Management Board</p>	<p>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.</p>
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10-9-2007	Social Services: Child Protection Services	<p>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) 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</p>
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		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.
10-10-2007	Corrections	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; 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

		<p>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.</p>
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**RULES REVIEW COMMITTEE MEETINGS**

The next regular meeting of the Interim Rules Review Committee will be held Thursday, October 25, 2007, via Digital Dakota Network at the following locations: State Capitol Building, CAP B, Pierre, South Dakota; South Dakota School of Mines and Technology, CB 109, Rapid City, South Dakota; and Sioux Falls University Center, Room 282, Sioux Falls, South Dakota, at 11:00 a.m. CST (10:00 a.m. MST). 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.

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