REGISTER

South Dakota Legislative Research Council

Volume 34 ***Monday, 8:00 a.m., October 15, 2007***

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

Department of Human Services: Division of Rehabilitation Services: (October 10, 2007) intends to amend rules that will add new definitions, clarify and expand the covered services to include implants in both ears, clarify and expand the eligibility criteria to include individuals through age 20 with one existing implant or an individual through age 20 with a documented progressive hearing loss leading to deafness after speech and language have developed, and clarify the application process. The general authority for these rules, as cited by the department, is SDCL 49-31-50.2.

A public hearing will be held in Room 412, 4th floor, State Capitol, Pierre, South Dakota, on November 14, 2007, at 1:00 p.m. Copies of the proposed rules may be obtained without charge from and written comments sent to Velda Bartel, Administrative Rules Coordinator, Department of Human Services, Hillsview Plaza, East Hwy 34, c/o 500 East Capitol, Pierre, South Dakota 57501-5070. Copies of the proposed rules may also be obtained at the Department's website: www.state.sd.us/dhs/drs/. Persons interested in presenting data, statements, opinions and arguments for or against the proposed rules may do so by appearing in person at the hearing. Written comments must be received by November 24, 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) 773-5990 or (605) 773-6412 TTY at least 48 hours before the hearing.

Department of Game, Fish and Parks: (October 12, 2007) intends to amend or adopt rules to increase the fee for a transferable annual park license from $45 to $60, increase the cost of an unattended park entrance license from $8 to $10 in all areas other than Custer State Park where the cost of an unattended park entrance license already is $10, and increase the dollar amount an individual can apply toward the purchase of an annual park entrance license from $5 to $7 except in Custer State Park where individuals already have this option; increase the basic campground fee from $6 per night to $8 per night, modern campground fee from $8 per night to $10 per night, equestrian campground fee from $8 per night to $10 per night, preferred campground fee from $10 per night to $12 per night, prime campground fee from $12 per night to $14 per night, camping cabin fee from $32 per night to $35 per night except at Lewis and Clark, Chief White Crane and Pierson Ranch where the rate would increase from $37 per night to $40 per night, group lodging fee from $110 per night to $135 per night at Mina Lake and Shadehill and from $175 per night to $200 per night at Lake Thompson and Newton Hills, and establish the per night lodging at the Palisades Lodge at $200 per night; increase the annual trail user fee from $10 to $15 and daily trail user fee from $2 to $3 for the George S. Mickelson Trail; create an exception to the state small game transportation permit requirement for an individual transporting another person's legally taken migratory game birds tagged in the manner required by federal regulation; modify the commission rule pertaining to the South Dakota/Nebraska reciprocal access agreement to include all legal fishing methods specified in the agreement; change the dates of fishing seasons

for creeks, streams and rivers in certain northeastern South Dakota counties as the Saturday closest to April 21 through December 31, inclusive; remove out-of-date special limit restrictions for walleye, sauger, and walleye-sauger hybrids on Lake Oahe, remove Orman Dam from the list of lakes subject to a 14-inch maximum length limit for walleye, sauger, and walleye-sauger hybrids, add Curlew Lake to the list of waters with a 15-inch minimum length limit for largemouth bass, add Reetz, Horseshoe, and Waubay Lakes, all in Day County, to the list of waters with a 12 to 18 inch protected slot for largemouth and smallmouth bass, with a combined daily limit of three fish and no more than one fish being 18 inches or greater in length, change the length limits for the protected slot for smallmouth bass in Lake Sharpe from 12 to 18 inches to 14 to 18 inches, revise the limits for South Dakota/Iowa boundary waters to make the daily and possession limits the same as those established for species in inland waters with the exception of catfish (daily limit of 15 and possession limit of 30) and closing the season for sturgeon and paddlefish; increase the number of resident paddlefish tags by 200 to a total of 1,550 tags, change the season from the current 30 consecutive days starting October 1, to October 1 through October 31, inclusive, and allow Nebraska residents licensed to fish in Nebraska or who are exempt from having to comply with Nebraska licensing requirements to use a South Dakota non-resident paddlefish tag without having to purchase a South Dakota non-resident fishing license; change the starting date for spearing rough fish in certain northeastern South Dakota counties from the last Saturday in April to the Saturday closest to April 21, change season dates and open areas for spearing game fish on Lakes Francis Case, Sharpe, Oahe, Belle Fourche, Angustora and Pactola (excluding salmonids in Pactola), and the Eastern South Dakota spearing lakes, add sturgeon as an exception to spearing along with paddlefish, and specify gear for taking game fish as legal spearguns and spears (removes archery), and repeal the specific rule which allows spearing of largemouth bass in Pactola Reservoir since other proposed changes to the spearing rules will allow spearing of game fish (except salmonids) in Pactola Lake; declare catfish taken from the inland waters of the Missouri River and its impoundments to be rough fish and delete "after December 31, 1991" at the end of the last sentence of the current rule, limit to two the number of set lines that can be used in South Dakota/Nebraska boundary waters, and clarify that the 15-inch minimum length limit for catfish caught on South Dakota/Nebraska boundary waters is for catfish caught on setlines only; remove Lake Andes North Unit in Charles Mix County from the list of waters open to taking of bait other than from May 1 through July 31; clarify that a person who has been issued a permit to hunt by falconry or a person accompanying the permittee may lawfully carry a pistol while hunting if in possession of a valid concealed pistol permit issued pursuant to state law; provide that a private fish hatchery licensee who submits a license renewal application does not have to prove compliance with the criteria for approval of the application if the hatchery facility and the waters included therein remain unchanged from the application approved in the preceding year; remove the exception of white suckers, creek chubs, fathead minnows, and golden shiners from the requirement for a fish importation permit, meaning no fish species used as bait could be imported into South Dakota without a permit; establish a definition of "blind or visually impaired," include blind or visually impaired persons in the legal definition of "total disability," thus making such persons eligible for reduced fee resident small game and fishing licenses, require a person seeking "blind or visually impaired" status to provide the Department with a written statement in support of the person's qualification for that status from a licensed physician or board licensed optometrist, and establish a definition for a "designated shooter permit" and the authorities, limitations and conditions of the designated shooter permit; and specifically prohibit catch and release tournaments for walleye and salmon from June 1 through September 15, rather than

listing the prohibition as a special condition of approval and issuance of a fishing tournament permit. The general authority for these rules, as cited by the department, is SDCL 41-2-18, 41-6-10.2, 41-6-22, 41-8-37, 41-17-1.1, 41-17-13, 41-17-13.4, and 32-3A-1.

A public hearing will be held at Bob's Resort, 29336 US Hwy 212, Gettysburg, South Dakota, on November 1, 2007, 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.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF LABOR: BOARD OF TECHNICAL PROFESSIONS: 20:38:12:00; 20:38:13:01, 20:38:13:03, 20:38:13:06; 20:38:14:01, 20:38:14:02, 20:38:14:03, 20:38:14:04; 20:38:17:04, 20:38:17:07, 20:38:17:08, 20:38:17:13; 20:38:18:02, 20:38:18:03; 20:38:19:02, 20:38:19:05, 20:38:19:06, 20:38:19:10; 20:38:23:03, 20:38:23:04, 20:38:23:08, and 20:38:23:12.

History-Notice: 34 SDR 55, August 13, 2007
Hearing: September 10, 2007
Filed: October 11, 2007
Effective: October 31, 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

10-15-2007	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.
10-23-2007	Social Services: Economic Assistance	Amend Food Stamp Program rules to increase the standard utility allowance for Food Stamp households responsible for paying heating and cooling expenses; increase the standard telephone allowance for Food Stamp households not eligible for the standard utility allowance but billed for a telephone; increase the limited utility allowance for Food Stamp households not eligible for the standard utility allowance but which incurs expenses for at least two separate types of utilities; and increase the one-utility allowance for those Food Stamp households not eligible for either the standard or limited utility allowance but which incurs an expense for one type of utility, not including a telephone; 34 SDR 99.
10-25-2007	Transportation	Amend a speed zone in Brookings County on US Highway 14 in the City of Brookings to

		reduce speed limits for traffic along the area off recent commercial development at the west of the Interstate 29 interchange; 34 SDR 100.
10-29-2007	Social Services: Office of the Secretary	Amend and adopt rules relating to the recovery of funds expended by the Department on behalf of children in alternative care settings and individuals in long-term care when establishing the fee charged to the parents of a child placed into alternative care, clarify what information the Department uses to determine the parents' income; provide a mechanism for establishing the parents' income if the parent fails to complete and return to the Department an income statement; specify that the fee charged and ultimately subject to recovery by the Department may not exceed the actual costs of caring for the child; allow the Department to waive the alternative care fees under certain circumstances; when making a recovery against an individual's estate, specify that the amount of the recovery will be reduced if the individual had a long-term care partnership insurance policy that paid for services; specify how the amount of the reduction is determined; and specify that the amount of the reduction may not exceed the amount paid under the long-term care partnership insurance policy; 34 SDR 99.
11-1-2007	Game, Fish and Parks	amend or adopt rules to increase the fee for a transferable annual park license from $45 to $60, increase the cost of an unattended park entrance license from $8 to $10 in all areas other than Custer State Park where the cost of an unattended park entrance license already is $10, and increase the dollar amount an individual can apply toward the purchase of an annual park entrance license from $5 to $7 except in Custer State Park where individuals already have this option; increase the basic campground fee from $6 per night to $8 per night, modern campground fee from $8 per night to $10 per night, equestrian campground fee from $8 per night to $10 per night, preferred campground fee from $10 per night to $12 per night, prime campground fee from $12 per night to $14 per night, camping cabin fee from $32 per night to $35 per night except at Lewis and Clark, Chief White Crane and

		Pierson Ranch where the rate would increase from $37 per night to $40 per night, group lodging fee from $110 per night to $135 per night at Mina Lake and Shadehill and from $175 per night to $200 per night at Lake Thompson and Newton Hills, and establish the per night lodging at the Palisades Lodge at $200 per night; increase the annual trail user fee from $10 to $15 and daily trail user fee from $2 to $3 for the George S. Mickelson Trail; create an exception to the state small game transportation permit requirement for an individual transporting another person's legally taken migratory game birds tagged in the manner required by federal regulation; modify the commission rule pertaining to the South Dakota/Nebraska reciprocal access agreement to include all legal fishing methods specified in the agreement; change the dates of fishing seasons for creeks, streams and rivers in certain northeastern South Dakota counties as the Saturday closest to April 21 through December 31, inclusive; remove out-of-date special limit restrictions for walleye, sauger, and walleye-sauger hybrids on Lake Oahe, remove Orman Dam from the list of lakes subject to a 14-inch maximum length limit for walleye, sauger, and walleye-sauger hybrids, add Curlew Lake to the list of waters with a 15-inch minimum length limit for largemouth bass, add Reetz, Horseshoe, and Waubay Lakes, all in Day County, to the list of waters with a 12 to 18 inch protected slot for largemouth and smallmouth bass, with a combined daily limit of three fish and no more than one fish being 18 inches or greater in length, change the length limits for the protected slot for smallmouth bass in Lake Sharpe from 12 to 18 inches to 14 to 18 inches, revise the limits for South Dakota/Iowa boundary waters to make the daily and possession limits the same as those established for species in inland waters with the exception of catfish (daily limit of 15 and possession limit of 30) and closing the season for sturgeon and paddlefish; increase the number of resident paddlefish tags by 200 to a total of 1,550 tags, change the season from the current 30

		consecutive days starting October 1, to October 1 through October 31, inclusive, and allow Nebraska residents licensed to fish in Nebraska or who are exempt from having to comply with Nebraska licensing requirements to use a South Dakota non-resident paddlefish tag without having to purchase a South Dakota non-resident fishing license; change the starting date for spearing rough fish in certain northeastern South Dakota counties from the last Saturday in April to the Saturday closest to April 21, change season dates and open areas for spearing game fish on Lakes Francis Case, Sharpe, Oahe, Belle Fourche, Angustora and Pactola (excluding salmonids in Pactola), and the Eastern South Dakota spearing lakes, add sturgeon as an exception to spearing along with paddlefish, and specify gear for taking game fish as legal spearguns and spears (removes archery), and repeal the specific rule which allows spearing of largemouth bass in Pactola Reservoir since other proposed changes to the spearing rules will allow spearing of game fish (except salmonids) in Pactola Lake; declare catfish taken from the inland waters of the Missouri River and its impoundments to be rough fish and delete "after December 31, 1991" at the end of the last sentence of the current rule, limit to two the number of set lines that can be used in South Dakota/Nebraska boundary waters, and clarify that the 15-inch minimum length limit for catfish caught on South Dakota/Nebraska boundary waters is for catfish caught on setlines only; remove Lake Andes North Unit in Charles Mix County from the list of waters open to taking of bait other than from May 1 through July 31; clarify that a person who has been issued a permit to hunt by falconry or a person accompanying the permittee may lawfully carry a pistol while hunting if in possession of a valid concealed pistol permit issued pursuant to state law; provide that a private fish hatchery licensee who submits a license renewal application does not have to prove compliance with the criteria for approval of the application if the hatchery facility and the waters included therein remain unchanged

		from the application approved in the preceding year; remove the exception of white suckers, creek chubs, fathead minnows, and golden shiners from the requirement for a fish importation permit, meaning no fish species used as bait could be imported into South Dakota without a permit; establish a definition of "blind or visually impaired," include blind or visually impaired persons in the legal definition of "total disability," thus making such persons eligible for reduced fee resident small game and fishing licenses, require a person seeking "blind or visually impaired" status to provide the Department with a written statement in support of the person's qualification for that status from a licensed physician or board licensed optometrist, and establish a definition for a "designated shooter permit" and the authorities, limitations and conditions of the designated shooter permit; and specifically prohibit catch and release tournaments for walleye and salmon from June 1 through September 15, rather than listing the prohibition as a special condition of approval and issuance of a fishing tournament permit; 34 SDR 105.
11-5-2007	Health: Health and Medical Services	Amend rules that will enhance preparedness for influenza pandemic and improve the responses to other Notifiable Diseases; 34 SDR 100.
11-14-2007	Human Services: Rehabilitation Services	Amend rules that will add new definitions, clarify and expand the covered services to include implants in both ears, clarify and expand the eligibility criteria to include individuals through age 20 with one existing implant or an individual through age 20 with a documented progressive hearing loss leading to deafness after speech and language have developed, and clarify the application process; 34 SDR 105.

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.

The **South Dakota Register**, ISSN 0191-1104, is published by the South Dakota Legislative Research Council pursuant to SDCL 1-26A-1. Subscriptions to Volume 34 are $25. Make checks payable to "State of South Dakota" and mail to the Legislative Research Council, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070. Information from the Register is available free of charge on the Internet at http://legis.state.sd.us. Subscribe to receive electronic notification of the availability of the **South Dakota Register** at **MyLRC** (http://legis.state.sd.us/mylrc/index.aspx).