

REGISTER



South Dakota Legislative Research Council

Volume 38

Monday, 8:00 a.m., October 17, 2011

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

Public Utilities Commission: (October 12, 2011) intends to adopt and amend rules to correct statutory citations; revise how refunds and charges are calculated and assessed for gas or electric meters that are running either slow or fast; limit charges for residential customers for meters that do not register properly; revise how refunds and charges are calculated and assessed for other types of electric or gas meter errors; set timeframes for overcharge or undercharge payments; allow a utility to create a regulatory asset for amounts not otherwise recovered from a residential customer for meter errors; set forth the definitions for a new chapter of rules regarding renewable energy credits and renewable, recycled, and conserved energy; set forth how a retail provider of electricity shall determine the amount of conserved energy achieved through energy efficiency measures; describe how demand response measures are to be measured and verified; and set forth how a provider of electricity shall report renewable energy credits to the Public Utilities Commission. The general authority for these rules, as cited by the commission, is SDCL 49-34A-4, 49-34A-27, 49-34A-93, 49-34A-96, 49-34A-101, and 49-41B-35.

A public hearing will be held in Room 413, 4th Floor, State Capitol, 500 East Capitol, Pierre, South Dakota, on November 9, 2011, at 9:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Public Utilities Commission, State Capitol, 500 East Capitol, Pierre, SD 57501-1234. Copies are

also available at the commission's home page at <http://puc.sd.gov/Dockets/Rulemaking/2011/rm11-001.aspx>. Material sent by mail must be received by the Public Utilities Commission by November 21, 2011, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-3201 at least 48 hours before the hearing.

Department of Game, Fish and Parks: (October 13, 2011) intends to amend General Provisions rules that would (a) add definitions for "legal spear," "line," and modify the definition of "liberalized fishing" to remove the reference to methods of take; (b) replace all references to "spear" in the rule chapter with the term "legal spear"; (c) add a new rule which creates a permit allowing fish legally possessed by licensed anglers to be gifted to charitable/nonprofit organizations under certain conditions; (d) remove Allen Dam and Little Moreau No. 2 from the prohibition on baitfish use; (e) remove Lake Poinsett Rearing Pond, Platte Creek Rearing Pond, and American Creek Fish Spawning Station from the list of "no fishing zones"; (f) add "hook and line" to the list of authorized methods of take in liberalized fishing waters; (g) modify the rule prohibiting introduction of nonnative fish into state waters and prohibiting possession and transportation of snakehead fish; and (h) modify the rule prohibiting high grading of fish to remove the prohibition of high grading of bluegills on Enemy Swim/Campbell Slough; amend a Fishing Seasons rule pertaining to waters open to the taking of bait that would no longer allow legal anglers to transfer bait collected from that portion of the Missouri River below Gavins

Point Dam for use during the same day in the Missouri River below Gavins Point dam; amend Snagging of Paddlefish rules that would (a) allow applicants for paddlefish snagging permits to apply for a preference point only with no opportunity for issuance of a permit as is allowed with most big game licenses and (b) add a limited paddlefish snagging season on Lake Francis Case which would run from May 1 through May 31; amend Fish Limits rules that would (a) remove the current length restrictions placed on black bass (smallmouth and largemouth bass) on Lake Sharpe and (b) change the word "catch" to "harvest" in the rule which establishes daily and possession limits for nonresident family fishing licenses; amend Spearing rules that would (a) replace all references to "spears" with the term "legal spear"; (b) add Mud Lake and Cottonwood Lake in Roberts County to the list of waters where game fish spearing is allowed; and (c) allow applicants for archery paddlefish permits to apply for a preference point only with no opportunity for issuance of a permit as is allowed with most big game licenses; amend Bait rules that would (a) raise fees for all bait dealer licenses; (b) change "flathead shiners" to "flathead chub" under species that may be taken as bait for noncommercial use; and (c) close the James, Big Sioux, and Vermillion Rivers as well as the Missouri River below Gavins Point Dam to both the commercial and noncommercial taking of bait year round; amend Private Fish Hatcheries rules that would (a) increase private hatchery license fees and (b) modify the rule pertaining to license approval criteria to allow for bullheads and green sunfish to be present when approving private hatchery ponds; adopt a new chapter to Article 41:10 - Special Management Categories, which deals with regulation of aquatic nuisance species. The general authority for these rules, as cited by the department, is SDCL 41-2-18, 41-6-10, 41-6-37.1, and 41-12-6.

A public hearing will be held at the Ramkota RiverCenter, 902 W. Sioux Avenue, Pierre, South Dakota, on November 3, 2011, 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 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 Wildinfo@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.

Department of Revenue: South Dakota Lottery Commission: (October 14, 2011) intends to amend a rule that would require lottery retailers to collect \$2.00 for the sale of each Powerball play instead of \$1.00. 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 November 18, 2011, at 9:45 a.m. CT. Copies of the proposed rules may be obtained from and written comments sent to the Department of Revenue, 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/lotteryrules111811.pdf>. Written comments must be received by November 17, 2011, 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.

NOTICE:

The South Dakota lottery is ending instant ticket

game numbers 339 - Bank Loot, 351- Cash on the Spot, and 372 - SD Black. The last day that prizes will be paid for these games is April 3, 2012.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Valentina R. Merdanian, Oglala, was appointed on October 5, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective September 28, 2011, and shall continue until September 1, 2012.

Emma I. Clifford, Pine Ridge, was appointed on October 5, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective September 1, 2011, and shall continue until September 1, 2012.

Eric M. Schlingen, Vermillion, was appointed on October 5, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective October 3, 2011, and shall continue until September 1, 2012.

Daniel E. Green, Spearfish, was reappointed on October 13, 2011, to the **Board of Examiners of Psychologists**, effective immediately and shall continue until June 30, 2014.

Lorin D. Pankratz, Sioux Falls, was reappointed on October 13, 2011, to the **Board of Examiners of Psychologists**, effective immediately and shall continue until June 30, 2014.

Thomas S. Stanage, Ph.D., Yankton, was reappointed to the **Board of Examiners of Psychologists**, effective immediately and shall continue until June 30, 2014.

Jerome Buchkoski, Sioux Falls, was reappointed on October 13, 2011, to the **Board**

of Examiners of Psychologists, effective immediately and shall continue until June 30, 2014.

Alicia Y. Alvarez, Hartford, was reappointed on October 13, 2011, to the **South Dakota Crime Victims' Compensation Commission**, effective immediately and shall continue until June 30, 2014.

Jon Hagen, Sioux Falls, was reappointed on October 13, 2011, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, effective immediately and shall continue until June 30, 2014.

Mark Bontreger, Watertown, was reappointed on October 13, 2011, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, effective immediately and shall continue until June 30, 2014.

Valentina R. Merdanian, Oglala, was appointed on October 13, 2011, to the **Hagen-Harvey Memorial Scholarship Board**, to replace Dorothy LeBeau, effective immediately and shall continue until July 1, 2016.

Judicial Appointment:

The **Honorable Bruce Anderson** was selected at the 2011 Judicial Conference to a four-year term on the Judicial Qualifications Commission, following the vacancy created when Judge Lori Wilbur was appointed to the South Dakota Supreme Court.

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

10-18-2011	Social Services: Division of Adult Services and Aging	Amend rules to repeal obsolete rules, update definitions, update services that may be provided by programs to victims of domestic violence and sexual abuse, remove duplicative statutory language, clarify that a program may not impose income standards or mandate participation in a service as conditions of eligibility, outline standards for hotel or motel facilities or private homes that are used as shelter, and outline policy and bylaw requirements for shelter programs; 38 SDR 57.
10-20-2011	Labor and Regulation: Division of Insurance	Amend rules to require workers' compensation insurers to file claim expenditure reports and ensure refunds are being processed appropriately when a request is not eligible for external review; 38 SDR 57.
10-20-2011	Labor and Regulation: Division of Labor and Management	Amend rules to update references in the workers compensation medical case management rules, revise the workers compensation fee schedule, and repeal the department's optimal recovery guidelines; 38 SDR 57.
11-3-2011	Game, Fish, and Parks	Amend General Provisions rules that would (a) add definitions for "legal spear," "line," and modify the definition of "liberalized fishing" to remove the reference to methods of take; (b) replace all references to "spear" in the rule chapter with the term "legal spear"; (c) add a new rule which creates a permit allowing fish legally possessed by licensed anglers to be gifted to charitable/nonprofit organizations under certain conditions; (d) remove Allen Dam and Little Moreau No. 2 from the prohibition on baitfish use; (e) remove Lake Poinsett Rearing Pond, Platte Creek Rearing Pond, and American Creek Fish Spawning Station from the list of "no fishing zones"; (f) add "hook and line" to the list of authorized methods of take in liberalized fishing waters; (g) modify the rule prohibiting introduction of nonnative fish into state waters and prohibiting possession and transportation of snakehead fish; and (h) modify the rule prohibiting high grading of fish to remove the prohibition of high grading of bluegills on Enemy Swim/Campbell Slough; amend a Fishing

		<p>Seasons rule pertaining to waters open to the taking of bait that would no longer allow legal anglers to transfer bait collected from that portion of the Missouri River below Gavins Point Dam for use during the same day in the Missouri River below Gavins Point Dam; amend Snagging of Paddlefish rules that would (a) allow applicants for paddlefish snagging permits to apply for a preference point only with no opportunity for issuance of a permit as is allowed with most big game licenses and (b) add a limited paddlefish snagging season on Lake Francis Case which would run from May 1 through May 31; amend Fish Limits rules that would (a) remove the current length restrictions placed on black bass (smallmouth and largemouth bass) on Lake Sharpe and (b) change the word "catch" to "harvest" in the rule which establishes daily and possession limits for nonresident family fishing licenses; amend Spearing rules that would (a) replace all references to "spears" with the term "legal spear"; (b) add Mud Lake and Cottonwood Lake in Roberts County to the list of waters where game fish spearing is allowed; and (c) allow applicants for archery paddlefish permits to apply for a preference point only with no opportunity for issuance of a permit as is allowed with most big game licenses; amend Bait rules that would (a) raise fees for all bait dealer licenses; (b) change "flathead shiners" to "flathead chub" under species that may be taken as bait for noncommercial use; and (c) close the James, Big Sioux, and Vermillion Rivers as well as the Missouri River below Gavins Point Dam to both the commercial and noncommercial taking of bait year round; amend Private Fish Hatcheries rules that would (a) increase private hatchery license fees and (b) modify the rule pertaining to license approval criteria to allow for bullheads and green sunfish to be present when approving private hatchery ponds; adopt a new chapter to Article 41:10 - Special Management Categories, which deals with regulation of aquatic nuisance species; 38 SDR 65</p>
<p>11-9-2011</p>	<p>Public Utilities Commission</p>	<p>Amend rules to correct statutory citations; revise how refunds and charges are calculated</p>

		and assessed for gas or electric meters that are running either slow or fast; limit charges for residential customers for meters that do not register properly; revise how refunds and charges are calculated and assessed for other types of electric or gas meter errors; set time frames for overcharge or undercharge payments; allow a utility to create a regulatory asset for amounts not otherwise recovered from a residential customer for meter errors; set forth the definitions for a new chapter of rules regarding renewable energy credits and renewable, recycled, and conserved energy; set forth how a retail provider of electricity shall determine the amount of conserved energy achieved through energy efficiency measures; describe how demand response measures are to be measured and verified; set forth how a provider of electricity shall report renewable energy credits to the Public Utilities Commission; 38 SDR 65.
11-18-2011	Revenue: South Dakota Lottery Commission	Amend a rule that would require lottery retailers to collect \$2.00 for the sale of each Powerball play instead of \$1.00; 38 SDR 66.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, November 15, 2011. The committee chair has set the following tentative meeting schedule for the 2011 interim: 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>.