

# REGISTER



*South Dakota Legislative Research Council*

*Volume 30*

*Monday, 8:00 a.m., October 20, 2003*

---

---

**A COPY OF EACH REGISTER IS FILED IN THE OFFICE OF THE SECRETARY OF STATE**

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

***Department of Labor: State Plumbing***

***Commission:*** (October 14, 2003) has filed rules to repeal the 1996 National Standard Plumbing Code and amendments and adopt the 2003 Uniform Plumbing Code with amendments. The general authority for these rules, as cited by the commission, is SDCL 36-25-14 and 36-25-15.

A public hearing will be held in the Budget Host Inn/State Motel Conference Room, 640 N. Euclid, Pierre, South Dakota, on November 5, 2003, at 2:00 p.m. Copies of the proposed rules may be obtained without charge by writing the State Plumbing Commission, 308 S. Pierre St., @ 1320 E. Sioux Ave., Pierre, South Dakota 57501. A copy of the 2003 Uniform Plumbing Code may be obtained from the International Association of Plumbing and Mechanical Officials, 5001 E. Philadelphia St., Ontario, California 91761 at a cost of \$70. Written comments may be sent to the State Plumbing Commission and must be received prior to November 5, 2003. Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-3429 prior to the hearing.

***Department of Agriculture: Division of***

***Agricultural Services:*** (October 15, 2003) has filed a rule that will require those who manufacture distiller and corn gluten feed products to provide a maximum sulfur guarantee on the label of these products. The general authority for this rule, as cited by the department, is SDCL 39-14-60.

A public hearing will be held at the Department of Agriculture Conference Room, Foss Building, 523 East Capitol, Pierre, South Dakota 57501 on November 17, 2003, at 10:00 a.m. CST. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Agriculture, Division of Agricultural Services, 523 E. Capitol Ave., Pierre, South Dakota 57501. Written comments must be received by November 17, 2003. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-4432 prior to the hearing.

***Department of Game, Fish and Parks:***

(October 15, 2003) intends to amend rules that will permit uncased .22 caliber firearms year around on GFP designated rifle ranges at North Point and Oahe Downstream Recreation Areas and prohibits uncased firearms and bows year around in certain areas of Bear Butte State Park; increase the entrance license fee for persons occupying commercial motor coaches and implement the fee in all state parks and recreation areas; change the designation of the fee applicable at Richmond from "modern" to a "preferred" campground resulting in a higher fee; require boat operators to have on board a Coast Guard-approved wearable personal flotation device for each person being towed on certain devices unless the person being towed has possession of a wearable Coast Guard-approved personal flotation device; permit a migratory bird certification "permit" to be in the form of an "authorization code" and clarifies that if the permit is a "stamp," the stamp must be on the hunting license; change from 4 weeks of age to 6 weeks as the time when game birds propagated, possessed, or released on a private

shooting preserve must be appropriately marked; complete revision of and amendments to the chapter formerly known as "Domestication of Wild Species" and changed to "Captive Game Birds"; prohibit high-grading of trout in the Black Hills Trout Management Area and prohibit high-grading of bluegill in Campbell Slough; extend the date when an ice fishing shelter must be removed from Deerfield Lake; Newell Lake (largemouth bass) impose a 12-16 inch protected size restriction and establish a daily possession limit to include no more than one 16 inches or longer; Campbell Slough (smallmouth and largemouth bass) impose an 18 inch minimum size restriction and a daily possession limit of one; impose a 15 inch size restriction for largemouth and smallmouth bass in Stockade and New Underwood Lakes; impose a 14 inch minimum size restriction for walleye, sauger, and walleye-sauger hybrid at Campbell Slough, Curlew Lake, and Newell Lake; impose a 10 fish (bluegills and sunfish [or combination thereof], crappies, and perch) daily possession limit at Twin and Mud Lakes in Spink, Grant, and Roberts counties (except the Minnesota/SD boundary waters); clarify that no more than one of the northern pike taken daily from LaCreek National Wildlife Refuge may be 36 inches or greater in length and modify the possession limit; and impose the minimum size restriction for walleye, sauger, and walleye-sauger hybrid from 16 inches to 14 inches at Waubay Lake; open the bullfrog season all year long; prohibit taking turtles that are on the state list of endangered reptiles; modifies the species contained in the list of biological specimens that may be taken for commercial purposes and lawful anglers, and limits the possession by lawful anglers of any listed species to a daily limit of 15 each and possession limit of 30 each; repeal the resident, nonresident, and nonresident family fishing licenses for Lake Oahe; reduce the daily limit of walleye, sauger, and walleye-sauger hybrid on Lake Oahe to 6 daily and 18 in possession and prohibit the daily taking of more than one which is 22 inches or greater in length (was 18 inches); establish a daily limit of 3 walleye, sauger, walleye-sauger hybrid on Lake

Sharpe and on Lake Francis Case and the Missouri River downstream from Fort Randall Dam approximately 3 miles to the Nebraska border; and prohibit the taking of bait and biological specimens on the Missouri River below Gavins Point Dam. The general authority for these rules, as cited by the department, are SDCL 32-3A-1, 41-2-18, 41-6-10, 41-6-37.1, 41-12-3, 41-17-1.1, 41-17-13, and 41-17-13.4.

A public hearing will be held at the Best Western Ramkota Hotel, 920 West Sioux, Pierre, South Dakota, on November 6, 2003, at 2:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to John L. Cooper, Secretary, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received prior to the hearing date. Comments may also be sent by e-mail to [chuck.schlueter@state.sd.us](mailto:chuck.schlueter@state.sd.us). E-mail comments must include the commenter's name and address. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3387 before the hearing.

***Department of Social Services: Office of Medical Services:*** (October 17, 2003) intends to adopt rules that specify that SSI recipients aged 19 and over and children born after December 31, 1990, to a woman eligible for and receiving Medicaid on the date of the child's birth are subject to the Department's Primary Care Case Management Program (PCCMP); no longer require certain children under the age of 18 who were receiving SSI on August 22, 1996, but lost SSI eligibility due to a change in the definition of "childhood disability," certain individuals determined to be Qualified Medicare Beneficiaries, and individuals eligible for and receiving home and community-based services to participate in the Department's PCCMP; apply the provisions of the PCCMP the first full calendar month after the recipient chooses a primary care provider (PCP) or the Department assigns a primary care provider to the recipient; allow Indian Health Services clinics and out-of-state physicians or osteopaths to be primary care

providers if they meet certain requirements; allow an individual to select a primary care provider as long as the selection is made within 10 days after the Department supplies a list of PCPs to the individual; specify that the Department will send a written notice to the individual confirming the individual's PCP and the effective date; allow a recipient to request a PCP change either orally or in writing and establish the procedures to be used when a recipient requests a change; allow a provider to request permission to disenroll a recipient for good cause, establish reasons that constitute good cause, and establish the procedures followed when a provider makes such a request; allow a PCP to refer a recipient to any enrolled medical assistance provider and require the PCP to make the referral before the other medical provider provides the needed services; remove from the list of medical services subject to primary care case management services: rehab hospital services covered in chapter 67:16:10, psychological and chemical treatment covered in chapter 67:16:11, and prescription drug services covered in chapter 67:16:14; add to the list of medical services subject to primary care case management services: organ transplants covered in chapter 67:16:31, mental health services covered in chapter 67:16:41, federally qualified health center and rural health center services covered in chapter 67:16:44, and diabetes education program services covered in chapter 67:16:46; repeal a rule that gave community mental health centers the option of providing mental services through the direction of the recipient's PCP or the center's selected physician; and change billing and claim requirements to reflect the amended list of services subject to primary care case management services. 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 Wednesday, November 12, 2003, at 2:30 p.m. Copies of the proposed rules may be obtained

from and written comments sent to Jill Wellhouse, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Written comments must be received by November 24, 2003, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the Department at the time of the hearing. The testimony must relate directly to the changes being proposed and must cite the specific rule number to which the comments are being directed. 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) 773-3305 at least forty-eight hours before the hearing.

***Department of Social Services: Food Stamps:*** (October 17, 2003) intends to adopt rules that specify that those households that receive Low Income Energy Assistance are eligible for the food stamp standard utility allowance, and establish two new types of utility allowances for food stamp households: (1) a limited utility allowance for those households that pay for at least two separate types of utilities but is not eligible for the standard utility allowance; and (2) a one-utility allowance for a household that incurs an expense for only one type of utility but is not eligible for either the standard utility allowance or the limited utility allowance. These are options available under the Food Stamp Program. By implementing these new standard allowances, a household will no longer be able to claim actual utility expense. The general authority for these rules, as cited by the department, is SDCL 28-12-1.

A public hearing will be held in Conference Room #2, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on Wednesday, November 12, 2003, at 3:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to Jill Wellhouse, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre,

South Dakota 57501. Written comments must be received by November 24, 2003, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the Department at the time of the hearing. The testimony must relate directly to the changes being proposed and must cite the specific rule number to which the comments are being directed. 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) 773-3305 at least forty-eight hours before the hearing.

64:44:03:02; 64:75:01:01; 64:75:02:05; 64:75:04:23; 64:80:01:01; 74:32:01:01; 74:32:02:02, and 74:32:02:04.

History-Notice: 30 SDR 35, Sept. 8, 2003  
 Hearing: September 25, 2003  
 Filed: October 16, 2003  
 Effective: November 5, 2003

**Executive Appointments:**

**Grant Walker**, Gayville, was appointed on October 3, 2003, to the **Council of Juvenile Services**, effective immediately and shall continue until June 30, 2004.

**Sharlene Hilderman**, Ft. Pierre, was appointed on October 3, 2003, to the **South Dakota Board of Accountancy**, effective immediately and shall continue until July 1, 2005.

**Pat Manning**, Beresford, was appointed on October 9, 2003, to the **State Fair Commission**, effective immediately and shall continue at the pleasure of the Governor.

**Robert Johnson**, Rapid City, was appointed on October 9, 2003, to the **Board of Barber Examiners**, to replace William Schlosser, effective immediately and shall continue until July 1, 2006.

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 Commerce and Regulation for commercial driver licensing, the Department of Labor for Article 47:03, and the Department of Revenue.

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

**Administrative Rules:**

**DEPARTMENT OF EDUCATION: SOUTH DAKOTA BOARD OF EDUCATION:**  
 24:15:03:06.

History-Notice: 30 SDR 29, August 25, 2003  
 Hearing: September 15, 2003  
 Filed: October 16, 2003  
 Effective: November 5, 2003

**DEPARTMENT OF REVENUE AND REGULATION:** 20:08:03:01; 20:08:07:04; 20:14:01:01; 20:14:12:01; 64:01:01:01; 64:02:01:01, 64:02:01:05, 64:02:01:13; 64:04:01:13.06; 64:05:01:02; 64:06:01:01.02, 64:06:01:35.03, 64:06:01:35.04, 64:06:01:42, 64:06:01:44, 64:06:01:55; 64:06:02:11; 64:06:03:23; 64:07:01:16; 64:09:01:01, 64:09:01:23, 64:09:01:24, 64:09:01:26, 64:09:01:27; 64:10:01:01; 64:26:01:01, 64:28:12:03; 64:32:01:05; 64:33:01:01; 64:35:01:01, 64:35:01:03, 64:35:01:05;

**REMINDER OF HEARINGS SCHEDULED**

10-22-2003	Transportation	Amend speed zones in Brookings, Kingsbury, Pennington, and Shannon Counties; 30 SDR 35.
------------	----------------	--

10-22-2003	Transportation	Amend a rule that will allow the three axle units to move 40,000 pounds and allow the same lenience for the short internal axle bridge providing the group is four axles; 30 SDR 47.
10-23-2003	Health	Amend rules to conform to the current health and safety standards; permit appropriate independence of residents; define construction and operational requirements for hospitals using seclusion rooms; ensure food safety; and follow the less restrictive federal requirements for signing of physician's orders; 30 SDR 39.
10-24-2003	Revenue and Regulation	Repeal certain rules pertaining to transactions between cigarette wholesalers and retailers; amend rules to increase the minimum size of sample bottles; allow a wholesaler to deliver a product ordered during a post-down period for a short time after the post-down period; and allow a wholesaler to reset the premises of a retailer, with certain restrictions; 30 SDR 47.
10-28-2003	Health	Amend rules that will update the list of reportable communicable diseases in South Dakota and update the reporting mechanisms; 30 SDR 47.
10-28-2003	Revenue and Regulation	Amend rules to change filing requirements to allow retaliatory fees to be billed to insurers on a periodic basis; repeal redundant rules on policy delivery; treat annuities and life insurance replacement form requirements in the same manner; and allow life insurance exclusions for travel to certain specifically identified countries for buyers purchasing very large life insurance policies; 30 SDR 51.
11-5-2003	Labor: Plumbing Commission	Repeal the 1996 National Standard Plumbing Code and amendments and adopt the 2003 Uniform Plumbing Code with amendments; 30 SDR 55.
11-6-2003	Game, Fish and Parks	Amend rules that will permit uncased .22 caliber firearms year around on GFP designated rifle ranges at North Point and Oahe Downstream Recreation Areas and prohibits uncased firearms and bows year around in certain areas of Bear Butte State Park; increase the entrance license fee for persons occupying commercial motor coaches; change the designation of the fee applicable at Richmond from "modern" to a "preferred" campground; require boat operators to have on board a Coast Guard-approved wearable

	<p>personal flotation device for each person being towed on certain devices unless the person being towed has possession of a wearable Coast Guard-approved personal flotation device; permit a migratory bird certification "permit" to be in the form of an "authorization code" and clarifies that if the permit is a "stamp," the stamp must be on the hunting license; change from 4 weeks of age to 6 weeks as the time when game birds propagated, possessed, or released on a private shooting preserve must be appropriately marked; complete revision of and amendments to the chapter formerly known as "Domestication of Wild Species" and changed to "Captive Game Birds"; prohibit high-grading of trout in the Black Hills Trout Management Area and prohibit high-grading of bluegill in Campbell Slough; extend the date when an ice fishing shelter must be removed from Deerfield Lake; Newell Lake (largemouth bass) impose a 12-16 inch protected size restriction and establish a daily possession limit to include no more than one 16 inches or longer; Campbell Slough (smallmouth and largemouth bass) impose an 18 inch minimum size restriction and a daily possession limit of one; impose a 15 inch size restriction for largemouth and smallmouth bass in Stockade and New Underwood Lakes; impose a 14 inch minimum size restriction for walleye, sauger, and walleye-sauger hybrid at Campbell Slough, Curlew Lake, and Newell Lake; impose a 10 fish (bluegills and sunfish [or combination thereof], crappies, and perch) daily possession limit at Twin and Mud Lakes in Spink, Grant, and Roberts counties (except the Minnesota/SD boundary waters); clarify that no more than one of the northern pike taken daily from LaCreek National Wildlife Refuge may be 36 inches or greater in length and modify the possession limit; and impose the minimum size restriction for walleye, sauger, and walleye-sauger hybrid from 16 inches to 14 inches at Waubay Lake; open the bullfrog season all year long; prohibit taking turtles that are on the state list of endangered reptiles; modifies the species contained in the</p>
--	--

		<p>list of biological specimens that may be taken for commercial purposes and lawful anglers, and limits the possession by lawful anglers of any listed species to a daily limit of 15 each and possession limit of 30 each; repeal the resident, nonresident, and nonresident family fishing licenses for Lake Oahe; reduce the daily limit of walleye, sauger, and walleye-sauger hybrid on Lake Oahe to 6 daily and 18 in possession and prohibit the daily taking of more than one which is 22 inches or greater in length (was 18 inches); establish a daily limit of 3 walleye, sauger, walleye-sauger hybrid on Lake Sharpe and on Lake Francis Case and the Missouri River downstream from Fort Randall Dam approximately 3 miles to the Nebraska border; and prohibit the taking of bait and biological specimens on the Missouri River below Gavins Point Dam; 30 SDR 55.</p>
<p>11-12-2003</p>	<p>Social Services: Food Stamps</p>	<p>Adopt rules that specifies that those households that receive Low Income Energy Assistance are eligible for the food stamp standard utility allowance, and establish two new types of utility allowances for food stamp households: (1) a limited utility allowance, and (2) a one-utility allowance; 30 SDR 57.</p>
<p>11-12-2003</p>	<p>Social Services: Office of Medical Services</p>	<p>Amend rules that reflect changes in Federal Authority from a waiver to a State Plan amendment; remove SSI disabled children and Title V children from the Case Management program; amend the eligibility requirements for a primary care provider; amend the individual's choice of PCP time measured by the date of notice; to allow changes in PCP to be conveyed verbally or in writing by the recipient, and no longer has to establish good cause; changes made to reflect disenrollment effective date request initiated by the provider will be the first day of the month following approval, and that good cause reasons must be non-discriminatory, generally applied to the provider's entire patient base; clarifies the language that a referral must be made by the PCP before the other medical provider provides service; changes exempt from managed care rehabilitation hospital services, chemical dependency treatment, and prescription drug services and states organ</p>

		transplants, FQHC/RHC, and diabetic education programs are now covered services under managed care; amend the definition source for mental health services for those diagnosed as seriously emotionally disturbed and exempts prescription drug services and clarifies that case management services are not exempt services; repeals the requirement of case management for services provided at community mental health centers; amend the billing requirements for case management; repeal rules that state pharmacy claims must have a managed care referral; and require that claim requirements for ambulatory surgical center services must follow certain requirements and for organ transplant services, mental health services, diabetes education services, FQHC and RHC services must follow certain claim requirements; 30 SDR 56.
11-17-2003	Agriculture: Division of Agricultural Services	Adopt a rule that will require those who manufacture distiller and corn gluten feed products to provide a maximum sulfur guarantee on the label of these products; 30 SDR 55.

### *Rules Review Committee Meetings*

The next meeting of the Interim Rules Review Committee will be held Friday, November 14, 2003, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting for the remainder of the interim: January 12, 2004.

Agencies whose rules have had a public hearing will be scheduled to meet with the Rules Review Committee and are asked to have a representative present at the meeting to give background information on their rules.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the LRC 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 29 are \$20. 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.cfm>).