

REGISTER



South Dakota Legislative Research Council

Volume 36

Monday, 8:00 a.m., November 2, 2009

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 Alcohol & Drug Abuse: (October 27, 2009) intends to amend rules to reflect the current process used to track information and remove outdated information both in definition and throughout the administrative rule; clarify the time period required to complete the treatment plan depending on the level of care; correct an incorrect administrative rule citation in ARSD 46:05:15:05; for Level 1.0, allows a new exception of a weekly progress note if no counseling is provided and clarifies the maximum amount of counseling services to be provided in a one week period. The general authority for these rules, as cited by the department, is SDCL 34-20A-27.

A public hearing will be held in Conference Room A at the Department of Human Services, Hillsvie Plaza, 3800 E. Highway 34, Pierre, South Dakota, on November 19, 2009, at 1:00 p.m. (CDT). 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, Hillsvie 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.dhs.sd.gov/ada/. 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. Materials sent by mail must reach the Department of Human Services by November 29, 2009, 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.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Order:

The Governor has signed Executive Order 2009-08 dated October 23, 2009, which declares the offices of state government within the executive branch to be administratively closed on Friday, the 27th day of November, and Thursday the 24th day of December. The other units of government and private business may make an independent judgment on this matter.

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

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| 11-5-2009 | Game, Fish and Parks | <p>Amend a Park Licenses rule to create a temporary park entrance license for motorcycles entering Custer State Park during the 14-day period beginning on the Monday preceding the Sturgis Motorcycle Rally and ending on the last Sunday of the Sturgis Motorcycle Rally and establish the fee for the temporary motorcycle PEL at \$10 per motorcycle; amend Camping Permits and Rules that would (a) establish a definition for a new "large group camping reservation" and require all campers to pay a non-refundable \$7.70 reservation fee for each campsite reserved as part of a large group reservation; (b) transfer Springfield and Rocky Point campgrounds from being campgrounds subject to the "modern campground" fee to being campgrounds subject to the "preferred campground" fee; and (c) establish certain park facility use fees for Fort Sisseton State Park and Pierson Ranch Recreation Area, i.e., Fort Sisseton or Pierson Ranch picnic shelter with kitchenette - \$50 per day; Fort Sisseton south barracks - \$125 per day; and Fort Sisseton event tent – on-site \$150 per day (must be rented for a minimum of two consecutive days, and off-site \$750 per day; amend General Provisions (Fishing Seasons and Methods) rules that would allow for the use of dead baitfish in the Black Hills Trout Management Area and other specified waters where use or possession of live bait fish is restricted; amend Fish Limits rules that would (a) change harvest regulations (length and possession limits) for a number of South Dakota lakes to make largemouth/smallmouth (black) bass (approximately 16 lakes) and walleye/sauger (approximately 25 lakes) for these waters consistent with regulation toolbox options; (b) extend the area without daily and possession limits for catfish on the Grand River to include the area from SD Hwy 73 to Shadehill Reservoir dam; (c) change the limit for northern pike on the Missouri River and Lake Pocasse in Campbell County from 3 fish/day to 6 fish/day to make reservoir regulations</p> |
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| | | <p>consistent with statewide regulations; (d) eliminate the special yellow perch regulation on Reetz Lake to make the regulations consistent with those on other Northeast South Dakota Lakes, i.e., the daily limit of perch will increase from 5 to 10 with no length limit; and (e) eliminate the catch and release restrictions for anglers 16 years of age and older and water-specific daily harvest limits for all anglers from Snake Creek Pond in Charles Mix County; amend Snagging of Paddlefish rules that would clarify that a person may not continue to snag rough fish after they have harvested a paddlefish, clarify when final processing of a legally taken paddlefish may take place, and clarify that the limitation on the maximum number of hooks and lines allowed for snagging paddlefish also applies to snagging rough fish; amend Bait rules that would (a) establish an expiration date for bait dealer licenses; and (b) allow seines, nets and traps used for the commercial taking of bait to contain rigid mesh no larger than one-half inch square constructed out of metal or plastic; amend Private Fish Hatcheries rules that would add licensed veterinarians to the list of persons allowed to perform fish inspections and clarify the qualifications required for persons who perform such inspections; amend Importation of Fish rules which would (a) create an annual commercial fish importation permit, establish application requirements, which will include the assessment of a \$40 fee per source facility covered by such a permit, eligibility criteria, restrictions on use, reporting requirements, and expiration date, for such permits; and provide for the issuance of non-commercial fish importation permits valid only for the dates specified on the fish importation permit and with no assessment of a fee per source facility; (b) add Infectious Salmon Anemia-I.S.A. virus to the list of fish diseases of regulatory concern, emergency prohibitive diseases; and (c) add licensed veterinarians to the list of persons allowed to perform fish health inspections and establish qualifications required for persons who perform such inspections; amend Fishing Tournaments rules</p> |
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| | | that intend to prohibit tournaments for walleye/sauger, or for walleye/sauger hybrids where fish are caught and not immediately released back into the water, from June 1 to September 15, inclusive. The stipulation that catch and release tournaments for salmon be prohibited from June 1 to September 15 would not be affected by this amendment; 36 SDR 67. |
| 11-6-2009 | Revenue and Regulation: Appraiser Certification | Amend rules to adopt the National Credit Union Administration's regulations establishing the \$250,000 threshold level; correct the term throughout the rules for supervising appraiser; correct spelling of a word, remove repetitive language; specifically state that personal inspections are the collective total of all of a state-registered appraiser's supervising appraisers; require the specific general college courses to be the equivalent of 3 semester credit hours; adopt the 2010-2011 Edition of the Uniform Standards of Professional Appraisal Practice; grant the secretary the authority for disciplinary action of an appraiser that has voluntarily surrendered a license or certificate in lieu of disciplinary action; require completion of the 7-hour uniform standards course to be completed in a timely manner after adoption; and require educational providers to submit student evaluations of each course offering to the secretary; 36 SDR 55. |
| 11-6-2009 | Environment and Natural Resources: Board of Water and Natural Resources | Adopt rules to amend the director areas of the East Dakota Water Development District and the James River Water Development District; 36 SDR 56. |
| 11-12-2009 | Revenue and Regulation: Division of Insurance | Amend a rule to delete life insurance from the provisions of the rules relating to cancellation and earned/unearned premium requirements; 36 SDR 75. |
| 11-17-2009 | Agriculture: Division of Agricultural Services | Amend and adopt rules to allow the sale of raw milk with oversight by the SD Department of Agriculture; 36 SDR 62. |
| 11-17-2009 | Revenue and Regulation: Property and Special Taxes | Amend rules to update manuals to current version; update real estate abstract classes and remove NA-Z and NA-Z1 classes due to the repeal of NA-Z statutes and change to productivity valuation of agricultural land; adopt and repeal rules due to a change in law |

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| | | relating to the calculation of NA-Z properties and productivity valuation of agricultural land; and adopt rules that would make malt beverages more consistent with similar rules that affect all other alcoholic beverages; 36 SDR 75. |
| 11-19-2009 | Human Services: Division of Alcohol & Drug Abuse | Amend rules to reflect the current process used to track information and remove outdated information both in definition and throughout the administrative rule; clarify the time period required to complete the treatment plan depending on the level of care; correct an incorrect administrative rule citation in ARSD 46:05:15:05; for Level 1.0, allows a new exception of a weekly progress note if no counseling is provided and clarifies the maximum amount of counseling services to be provided in a one week period; 36 SDR 81. |
| 11-24-2009 | Revenue and Regulation: Commission on Gaming | Amend Racing rules to repeal the limit on number of trainers; change the date that education courses are required from January 1, 2010, to January 31, 2012; and repeal the time for claiming payments from pari-mutuel pool; amend Gaming rules to clarify that coins and currency can be inserted into slot machines; and adopt a rule to require patrons to actively be engaged in playing slot machines in order to be entitled to credits or payouts; 36 SDR 61. |

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Wednesday, November 18, 2009, in Room 414, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2009 interim: December 15.

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>.

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 36 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>).