REGISTER

South Dakota Legislative Research Council

Volume 35 *Monday, 8:00 a.m., March 2, 2009*

NOTICES OF PROPOSED RULES: (None)

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Gerald Beninga, Sioux Falls, was appointed on February 25, 2009, to the **South Dakota Advisory Council on Aging**, to replace Dr. Fred Entwistle, effective February 2, 2009, and shall continue until December 31, 2012.

Lorraine Ellwein, Pierre, was reappointed on February 25, 2009, to the **South Dakota Advisory Council on Aging,** effective February 6, 2009, and shall continue until December 31, 2012.

Buron Lindbloom, Pierre, was appointed on February 25, 2009, to the **South Dakota Advisory Council on Aging**, to replace Dr. Gerald E. Tracy, effective February 23, 2009, and shall continue until December 31, 2011.

Gale Walker, Parkston, was appointed on February 25, 2009, to the **South Dakota Advisory Council on Aging**, to replace Fran Hendricks, effective January 30, 2009, and shall continue until December 31, 2010.

Glen A. Severson, Minnehaha County, was appointed on February 26, 2009, as a **Justice of the Supreme Court of South Dakota**, to replace Justice Richard W. Sabers, effective immediately upon taking the oath of office.

Judicial Appointment:

Kay F. Nicholas, Sisseton, was appointed on February 6, 2009, to the **Board of Pardons and Paroles**, to replace Mark F. Marshall, effective March 2, 2009, and shall continue until January 17, 2014.

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

3-5-2009	Game, Fish and Parks	Amend a Uses of Parks and Public Lands rule to remove the reference to "historic relics" in ARSD 41:03:01:15 (which with certain exceptions prohibits the destruction or removal of natural or historic features from lands controlled by the department) and replace it with "cultural resources" and establish a definition for "cultural resources;" amend a

		Markings and Zones rule to require authorization of the department secretary prior to any person placing buoys on public waters; amend Public Water Zoning rules to establish a no wake zone on Lake Francis Case adjacent to South Shore Lakeside Use Area (Gregory County); modify the boundaries of the no wake zone at Spring Creek Recreation Area (Hughes County) and establish a no swimming zone for the same area; amend the duration of the no wake zone on Long Lake (Lake County); establish a no wake zone within the waters of Cedar Shores marina on Lake Francis Case (Lyman County); and re-establish and maintain two public water safety zones on Pactola Lake (specifically, Musekamp Draw, also known as Airplane Draw, and Boarding House Gulch) in Pennington County, that were repealed by the GFP Commission in 2008; amend Motorboats and Watercraft rules to require mandatory use of a personal flotation device by a child age 12 or younger on board a boat operated at greater than no-wake speed unless the child is within a cabin or below deck, and add a provision to the rule that would require any person engaged in a watersport to wear a personal flotation device while so engaged; amend Refuges rules to move the western boundary for the Sutton Bottom and Latin Draw Waterfowl Refuges on the Missouri River from the water's edge to the center of the reservoir, and change Antelope Lake State Game Bird Refuge in Clark County to a State Waterfowl Refuge; amend Bait rules to amend ARSD 41:09:04:02 by replacing the word "fishers" with "anglers," delete "and biological specimens" and add "from the waters of the state;" change the title of ARSD 41:09:04:02.02 and define the species that can be taken and sold as bait by commercial bait dealers and delete biological specimens from the rule; amend ARSD 41:09:04:03 by deleting "and biological specimens," make minor revisions to the text for purposes of clarity, add East Krause, Middle Lynn (both in Day County) and Lake Alice (Deuel County) to the list of waters closed to commercial take of bait, remove Belvidere and Freeman (Jackson County) and Okaton (Jones County) from the

		list of waters closed year-round to the commercial taking of bait, and delete that portion of the rule that allows commercial take of mollusks by special permit from the secretary; amend ARSD 41:09:04:04 to clearly separate and define the gear allowed for commercial and noncommercial use, allow the department secretary or a designee to approve special equipment requests, add language clarifying that the bait possession limits do not apply to bait purchased from a licensed bait dealer, and make minor revisions to the text of the rule; delete "rough fish to be destroyed" from the title of ARSD 41:09:04:07, make minor revisions to the text of the rule for purposes of clarity, including specifying that game fish and threatened and endangered species caught in bait traps be returned to the water as soon as possible to prevent stress and death, and allow rough fist to be destroyed but not make it mandatory to do so; amend ARSD 41:09:04:09 to add "and gill-breathing animals" to the existing text; amend ARSD 41:09:04:12 to add language allowing a bait dealer with a private hatchery license to transport other fish while transporting baitfish under certain conditions; amend ARSD 41:09:04:13 by adding "and frogs" to the rule title and deleting the portion that allows the department secretary to approve the importation of reptiles, amphibians, crustaceans and mollusks for private introduction, culture or commercial purposes; amend both the title and text of ARSD 41:09:04:14 to clarify that the rules applies to "bait dealers" as opposed to simply "dealer," amend ARSD 41:09:04:15 pertaining to identification required on bait dealers vehicles and tanks used in transporting bait to decrease the size of lettering required, remove the requirement that the bait dealer's complete address be displayed, and require that the "bait" be included as part of the identification (if "bait" is part of the business name of the dealer the requirement would be satisfied); amend ARSD 41:09:04:16 to specify that the records required in this section shall be recorded and maintained on forms provided by

		the department, specify the records required for each type of bait dealer license, require that records be kept current and available for inspection during normal business hours, require that records be kept for a period of three years after the end of the license year, and require that a summary or records be submitted by January 31 of the year immediately following the licensed year, regardless of whether a renewal of the bait license is requested; and amend both the title and text of ARSD 41:09:04:17 to clarify that a conviction for violating the bait dealer rules by a licensee or his agents and employees may be cause for immediate revocation of the bait dealer's current license and for the department's refusal to issue a license for the calendar year following the year of conviction; 35 SDR 197.
3-6-2009	Attorney General	Amend rules to increase the fees associated with an electronic alcohol monitoring device from five dollars per day to six dollars per day and to increase the installation and deactivation fees and require payments of fees associated with the 24/7 program at or in advance of the time for the test or contemporaneously with the fee becoming due; 35 SDR 193.
3-11-2009	Environment and Natural Resources: Water Management Board	Amend Surface Water Quality rules to update references; correct typographical errors; clarify language; update toxic pollutant criteria; add and modify definitions; modify the dissolved oxygen and pH criteria; add E. coli criteria; set site specific criteria for the Little White River and White River; add beneficial uses to low flow rates for low quality fishery waters; review, remove, and reassign designated beneficial uses of certain lakes; and review and reassign designated beneficial uses of certain streams and correct typographical errors; 35 SDR 189.
3-17-2009	Social Services	Amend Medical Services Program rules to revise terminology; specify requirements and limitations of covered transportation services; move certain fee schedules to the Department's website and establish a system under which a provider can request an amendment to the schedules; update rates of payment for covered

		transportation services; and establish criteria for reimbursement of covered transportation services; amend Child Protection Services Program rules to establish water safety standards for family foster homes and require a group care center provider to submit its building plans for review; and amend LIEAP Program rules to remove the maximum payment limit for repair of a household's heating system; 35 SDR 203.
3-30-2009	Education: Board of Education	Adopt and amend Ed Resources rules to require schools to submit a plan if they do not meet their annual measurable objective specific to highly qualified teachers for three consecutive years and increase fees for teachers who apply for initial or for renewing a teacher certificate; and amend an Administration rule to require districts to verify the final submission of data on the second Friday in June and eliminate the additional seven days for districts that are greater than 5000 students for the June reporting deadline; 35 SDR 203.
3-30-2009	Health: Health and Medical Services	Amend a rule to ensure that Children's Special Health Services (CSHS) is using the current poverty guidelines in determining financial assistance eligibility; 35 SDR 204.

RULES REVIEW COMMITTEE MEETINGS

The Interim Rules Review Committee will have an informal meeting near the close of the Eighty-fourth Legislative Session to set the tentative meeting schedule for the 2009 interim. Watch for a notice of this informal meeting on the LRC website and at the Capitol.

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***.

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