

# REGISTER

## South Dakota Legislative Research Council



Volume 38

Monday, 8:00 a.m., October 3, 2011

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

**Department of Social Services: Division of Adult Services and Aging:** (September 26, 2011) intends to 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. The general authority for these rules, as cited by the department, is SDCL 25-10-30.

A public hearing will be held in the DSS Conference Room, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on October 18, 2011, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Laura Ringling, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Ringling may be contacted by telephone at (605) 773-3165. Written comments must be received by October 28, 2011, 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. 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) 773-3165 at least 48 hours before the hearing.

**Department of Labor and Regulation: Division of Insurance:** (September 26, 2011) intends to 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. The general authority for these rules, as cited by the department, is SDCL 58-2-39, 58-3-26, 58-17-87, 58-17H-49, 58-17I-16, and 58-18-79.

A public hearing will be held in Conference Room 3, Kneip Building, 700 Governors Drive, Pierre, South Dakota, on October 20, 2011, at 10:00 a.m. Paper copies of the proposed rules may be obtained without charge from and written comments sent to the Division of Insurance, Administrative Rules, 445 E. Capitol Avenue, Pierre, South Dakota 57501-3185. Material sent by mail must reach the Division of Insurance by October 20, 2011, to be considered. The text of the proposed rules is posted on the department's website: <http://www.state.sd.us/drr2/reg/insurance/Legal/hearing.htm>. The rules may also be obtained as a Microsoft Word attachment by emailing [melissa.klemann@state.sd.us](mailto:melissa.klemann@state.sd.us). 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) 773-3563 at least 48 hours before the hearing.

**Department of Labor and Regulation: Division of Labor and Management:** (September 29, 2011) is proposing to 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. The

general authority for these rules, as cited by the department, is SDCL 58-20-24, 60-5-18, 62-1-14, 62-5-21, and 62-7-8.

A public hearing will be held in Conference Room 3, Kneip Building, 700 Governors Drive, Pierre, South Dakota, on October 20, 2011, at 10:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Labor and Regulation, Division of Labor and Management, 700 Governors Drive, Pierre, South Dakota 57501-2291. The text of the proposed rules is posted on the department's website:

<http://dlr.sd.gov/workerscomp/proposedadmrules.aspx>. A copy of the rules may also be obtained by emailing [james.marsh@state.sd.us](mailto:james.marsh@state.sd.us). Material sent by mail must be received by October 20, 2011, to be considered. Persons who have special needs for which the division can make arrangements are asked to call (605) 773-3681 at least 48 hours before the hearing.

#### **DECLARATORY RULINGS:**

The South Dakota Gaming Commission has issued two declaratory rulings. The first ruling, dated September 26, 2011, In the Matter of the Declaratory Ruling of B. Y. Development, Inc. regarding Alteration of Building 8 the Commission determined that gaming may take place within the remodeling alterations to Cadillac Jack's Buildings 7 and 8 if other statutory and rule requirements are met.

The second ruling, dated September 26, 2011, In the Matter of the Declaratory Ruling of Flandreau Santee Sioux Tribe Petition for Declaratory Ruling for Pai Gow Poker the Commission determined that Pai Gow Poker may be authorized for play when the Commission promulgates the administrative rules for the play of this poker game.

Copies of the declaratory rulings may be reviewed or copied at the office of the Legislative Research Council during normal

business hours.

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

**DEPARTMENT OF EDUCATION: BOARD OF EDUCATION:** 24:06:07:01, 24:06:07:02, 24:06:07:03.01 to 24:06:07:07, inclusive; 24:06:08:02 to 24:06:08:06, inclusive; and 24:08:06:01.

History-Notice: 37 SDR 245, June 27, 2011  
Hearing: July 25, 2011  
Filed: September 27, 2011  
Effective: October 17, 2011

#### **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: BOARD OF MINERALS AND ENVIRONMENT:**

74:28:21:01, 74:28:21:02; 74:28:23:01; 74:28:24:01; 74:28:25:01, 74:28:25:03 to 74:28:25:05, inclusive; 74:28:26:01; 74:28:27:01; 74:28:28:01, 74:28:28:03 to 74:28:28:05, inclusive; 74:28:30:01; and 74:28:33:01.

History-Notice: 37 SDR 221, May 23, 2011  
Hearing: August 18, 2011  
Filed: September 28, 2011  
Effective: October 18, 2011

#### **DEPARTMENT OF TRANSPORTATION:**

70:01:02:32.

History-Notice: 38 SDR 15, August 1, 2011  
Hearing: August 25, 2011  
Filed: September 28, 2011  
Effective: October 18, 2011

#### **DEPARTMENT OF VETERANS AFFAIRS:**

50:03:01:01 to 50:03:01:06, inclusive; 50:03:02:01 to 50:03:02:04, inclusive; 50:03:03:01, 50:03:03:02; 50:04:01:01; 50:04:02:01 to 50:04:02:04, inclusive; 50:04:03:01 to 50:04:03:08, inclusive; 50:04:04:01 to 50:04:04:05, inclusive; 50:04:05:01; and 50:05:01:01 to 50:05:01:22, inclusive.

History-Notice: 38 SDR 15, August 1, 2011  
Hearing: August 25, 2011  
Filed: September 29, 2011  
Effective: October 19, 2011

**DEPARTMENT OF LABOR AND  
REGULATION: DIVISION OF  
INSURANCE:** 20:06:14:04; 20:06:33:02;  
20:06:53:72, 20:06:53:73, 20:06:53:78,  
20:06:53:79, and 20:06:53:80.

History-Notice: 38 SDR 23, August 15, 2011  
Hearing: September 6, 2011  
Filed: September 29, 2011  
Effective: October 19, 2011

#### **Executive Appointments:**

**William B. Colson**, Rapid City, was appointed on September 27, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective September 22, 2011, and shall continue until September 1, 2014.

**Doyle D. Estes**, Hill City, was appointed on September 27, 2011, to the **South Dakota Lottery Commission**, to replace Douglas Sharp, effective September 27, 2011, and shall continue until January 1, 2014.

**Jean A. Huegel**, Sioux Falls, was appointed on September 27, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective September 20, 2011, and shall continue until September 1, 2014.

**LeRoy V. LaPlante**, Vermillion, was appointed on September 27, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective September 9, 2011, and shall continue until September 1, 2014.

**Hani F. Shafai**, Rapid City, was appointed on September 27, 2011, to the **South Dakota State Service Commission for National and**

**Community Service**, effective September 9, 2011, and shall continue until September 1, 2014.

**Michael L. Wyland**, Sioux Falls, was appointed on September 27, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective September 9, 2011, and shall continue until September 1, 2014.

**William D. Anderson**, Vermillion, was appointed on September 28, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective September 28, 2011, and shall continue until September 1, 2013.

**Richard M. Braunstein**, Vermillion, was appointed on September 28, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective September 28, 2011, and shall continue until September 1, 2013.

**Joan A. Conroy**, Rapid City, was appointed on September 28, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective September 28, 2011, and shall continue until September 1, 2012.

**Sandra L. Diegel**, Rapid City, was appointed on September 28, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective September 28, 2011, and shall continue until September 1, 2013.

**Robert S. Engmann**, Rapid City, was appointed on September 28, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective September 28, 2011, and shall continue until September 1, 2012.

**Kathleen H. Nagle**, Pierre, was appointed on September 28, 2011, to the **South Dakota State**

**Service Commission for National and Community Service**, effective September 28, 2011, and shall continue until September 1, 2012.

**Ritchie L. Nordstrom**, Rapid City, was appointed on September 28, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective September 28, 2011, and shall continue until September 1, 2013.

**Nancy A. Wietgreffe**, Spearfish, was appointed on September 28, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective September 28, 2011, and shall continue until September 1, 2012.

**Sarah A. Wittmuss**, Vermillion, was appointed on September 28, 2011, to the **South Dakota State Service Commission for National and Community Service**, effective September 28, 2011, and shall continue until September 1, 2013.

### **Executive Order:**

The Governor has signed **Executive Order 2011-18** dated September 26, 2011. This order determines that a state of emergency exists due to extremely low inventories and outages of petroleum products. Due to the emergency, the transportation and delivery of diesel, ethanol, gasoline, and propane into and within South Dakota are exempt from 49 CFR Part 395, otherwise known as the federal hours of service regulations. The order will expire no later than midnight, October 25, 2011.

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**

10-6-2011	Game, Fish and Parks	Amend Park Licenses rules to repeal rules that provide that the park season extends from January 1 to December 31, inclusive, of each year, and establish time limits for a temporary park entrance license; amend Use of Parks and Public Lands rules to amend the Oahe Downstream Lodge fees to allow non-profit groups and government agencies a reduced user rate during shoulder and winter seasons and establish a check out time for camping cabins and park lodges; amend License Forms and Fees rules to eliminate the Custer State Park "any mountain lion" hunting license and \$150 fee for the license; lower the fee for replacing lost or destroyed nonresident waterfowl licenses from \$15 to \$5; eliminate the rule provisions that authorize the issuance of a permit in lieu of a lost license; create a new resident senior combination license at a cost of \$34 (\$29 plus \$5 surcharge) for persons
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		<p>65 years of age and older; and reduce the fee charged for nonresident youth small game licenses from \$25 to \$10; amend Custer State Park Restrictions rules to eliminate the eligibility requirement prohibiting a person who received a Custer State Park (CSP) "any mountain lion" license in any of the preceding nine years from applying for a license for the current mountain lion hunting season; and repeal the rule which prohibits a licensee hunting in the field during a CSP big game season from being accompanied by a guide; amend a Waterfowl Hunting Seasons rule to repeal the existing rule which requires use of nontoxic shot to take all species of waterfowl; amend a Sandhill Crane Hunting Season rule to repeal the existing rule which requires use of nontoxic shot to take sandhill crane; appeal a Depredation Permits rule to eliminate the rule which provides there is no application fee for a depredation permit; amend Mountain Lion Hunting Season rules to increase the total statewide mountain lion harvest limit from 50 to 60 mountain lions and increase the female harvest limit from 30 to 40 female mountain lions; repeal rules adopted in 2010 that provided for mountain lion hunting in CSP; and establish a random drawing process to allow a limited number of mountain lion hunters an opportunity to hunt in CSP; amend a Dog Training rule to repeal the section which requires an applicant for a professional dog training license to provide proof that the applicant has obtained written permission of all landowners on which the dog training will be held; amend a Nursing Home Group Fishing rule to repeal the section which provides that nursing home residents are subject to all other statutes and rules relating to fishing; and amend a Non-Game Bird Damage rule to repeal the chapter; 38 SDR 27.</p>
10-6-2011	Agriculture: Division of Agricultural Services	Amend a rule to adopt the current version of the American National Standard Safety Requirements for the Storage and Handling of Anhydrous Ammonia; 38 SDR 49.
10-12-2011	Environment and Natural Resources	Repeal the department's photocopy fee rules; 38 SDR 39.

10-13-2011	Governor's Office of Economic Development	Adopt rules to establish requirements and standards for the certification of certain business and industrial sites as "certified ready;" 38 SDR 39.
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.

### 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>.