

# REGISTER

*South Dakota Legislative Research Council*



*Volume 36*

*Monday, 8:00 a.m., October 19, 2009*

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

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

(October 16, 2009) intends to 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 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 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. The general authority for these rules, as cited by the department, is SDCL 32-3A-1, 41-2-18, 41-6-10, 41-17-1.1, and 41-17-13.4.

A public hearing will be held at Ramkota RiverCentre Convention Center, 902 W. Sioux Avenue, Pierre, South Dakota, on November 5, 2009, at 2:00 p.m. (CST). 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

[chuck.schlueter@state.sd.us](mailto:chuck.schlueter@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.

### **DECLARATORY RULING:**

The South Dakota Commission on Gaming has issued a Declaratory Ruling regarding a request from Midwest Motels of Deadwood II, LLC, dated September 23, 2009. The Commission determined, after hearing and considering the evidence, that the building known as the Bodega Bar constitutes two separate and distinct buildings for the purpose of determining the number of gaming devices that can be placed in each building.

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

#### **Executive Appointments:**

**Steve Hayes**, Presho, was appointed on October 9, 2009, to the **South Dakota Economic Development Finance Authority Board of Directors**, effective October 9, 2009, and shall continue until June 30, 2013.

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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| 10-21-2009 | Revenue and Regulation: Division of Insurance  | Adopt rules to include contracted Centers of Excellence in access plans filings and require health carriers to utilize registered Centers of Excellence; define medically necessary leaves of absence for dependent students enrolled on individual health benefit plans and the coverage rights of those students during that leave of absence; and define medically necessary leaves of absence for dependent students enrolled on group health benefit plans and the coverage rights of those students during that leave of absence; 36 SDR 44.  |
| 10-22-2009 | Agriculture: Division of Agricultural Services | Amend rules to define milk buyer and to charge the assessment fee as allowed in SDCL 40-32-25; 36 SDR 51.   |
| 10-26-2009 | Social Services: Economic Assistance           | Adopt rules to facilitate the administration of the Auxiliary Placement Program; 36 SDR 56.   |
| 10-26-2009 | Social Services: Economic Assistance           | Amend Supplemental Nutrition Assistance Program (SNAP) rules to update definitions and references; conform with new simplified reporting requirements; repeal obsolete provisions that are inapplicable under new reporting requirements; and remove references and policies related to retrospective budgeting; amend Low Income Energy Assistance Program (LIEAP) rules to update definitions; allow categorically income eligible households automatic eligibility; update a reference; and exempt children under age 19 from duplicate payment provisions in certain situations; 36 SDR 56. |
| 10-26-2009 | Social Services: Economic Assistance           | Amend Temporary Assistance for Needy Families (TANF) Program rules to update definitions and references; clarify existing procedures; clarify policy related to the protection and release of confidential information; conform with new simplified reporting requirements; repeal obsolete provisions that are inapplicable under new reporting requirements; remove references and policies related to retrospective budgeting; and update work activity provisions; 36 SDR 57.   |
| 11-2-2009  | Education: Board of Education                  | Amend Special Education rules to add the new supplemental regulation from IDEA and update language regarding FERPA; amend a Financial Matters rule to provide an equitable  |

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|           |                      | method for reimbursing providers for their driving time to a location where services will be delivered; amend a Developmental Delay rule to clarify eligibility; amend Accreditation and School Improvement rules to eliminate the option of a basic or standard high school program to comply with SB 187; and amend an Approval Process for Teacher Education Programs rule to allow elementary teachers to participate in the certification only program; 36 SDR 61.  |
| 11-5-2009 | Game, Fish and Parks | 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 |

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|  |  | <p>(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 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</p> |
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|            |   | 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 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.   |
| 11-17-2009 | 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.   |

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| 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. |
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### **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>.

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