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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

MEMORANDUM



South Dakota

Legislative Research Council

Rep. Larry J. Tidemann, Chair
Sen. Jean M. Hunhoff, Vice Chair

James Fry, Director
Doug Decker, Code Counsel

November 19, 2007

TO: Rules Contacts

FROM: Doug Decker, Code Counsel *DD*

RE: Interim Rules Review Committee Meeting – December 4, 2007

Your agency has been scheduled to present rules at the next Interim Rules Review Committee meeting (see the enclosed agenda). The agency must have a representative present at this meeting to explain the rules, give background information, or answer any questions from the committee.

Each agency must serve a copy of the rules and other information on the committee members at least five days before the meeting. Please review the "Directions for Submitting the Final Draft". The five-day requirement should be considered the minimum time allowed for service of the rules before the meeting. The committee members will use the copy of the rules that is served on the committee as part of the rule adoption process according to SDCL 1-26-4(9) to prepare for the meeting. The service of the rules must be done with enough time between the service of the rules and the meeting to allow the committee members time to review the rules prior to the meeting. A committee member who has not received the rules in time to review the rules before the meeting may vote to reject the agency's rules.

Thank you for your cooperation in this matter. This procedure will expedite the presentation of your rules before the committee and give the committee members access to the most recent version of your rules.

DD:ks

Enclosure: Agenda



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RULES REVIEW COMMITTEE
AGENDA RECEIVED

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Senator Orville B. Smidt, Chair
Representative Roger W. Hunt, Vice Chair

Two hundred eighty-third meeting
Tuesday
December 4, 2007

Room 413
State Capitol
Pierre, South Dakota

Agencies are asked to have a representative present at the meeting
to give background information on their rules.

- 9:00 a.m. Call to order, roll call, approval of minutes, staff report
9:05 a.m. Review of proposed rules

Senator Smidt

Department of Corrections - Amend rules to update procedures on deposits into an inmate's account and the handling of an inmate's frozen account; update who is allowed to visit an inmate, the conduct of visitors, and attorney-client visits; update how incoming correspondence that is not allowed is handled; change how an inmate's sentence is credited for time spent while on escape; and clarify that an inmate's minimum initial parole date is sixty (60) days from the date received at a Department of Corrections' facility.

Department of Game, Fish and Parks - Amend rules to increase the fee for a transferable annual park license from \$45 to \$60, increase the cost of an unattended park entrance license from \$8 to \$10 in all areas other than Custer State Park where the cost of an unattended park entrance license already is \$10, and increase the dollar amount an individual can apply toward the purchase of an annual park entrance license from \$5 to \$7 except in Custer State Park where individuals already have this option; increase the basic campground fee from \$6 per night to \$8 per night, modern campground fee from \$8 per night to \$10 per night, equestrian campground fee from \$8 per night to \$10 per night, preferred campground fee from \$10 per night to \$12 per night, prime campground fee from \$12 per night to \$14 per night, camping cabin fee from \$32 per night to \$35 per night except at Lewis and Clark, Chief White Crane and Pierson Ranch where the rate would increase from \$37 per night to \$40 per night, group lodging fee from \$110 per night to \$135 per night at Mina Lake and Shadehill and from \$175 per night to \$200 per night at Lake Thompson and Newton Hills, and establish the per night lodging at the Palisades Lodge at \$200 per night; increase the annual trail user fee from \$10 to \$15 and daily trail user fee from \$2 to \$3 for the George S. Mickelson Trail; create an exception to the state small game transportation permit requirement for an individual transporting another person's legally taken migratory game birds tagged in the manner required by federal regulation; modify the commission rule pertaining to the South Dakota/Nebraska reciprocal access agreement to include all legal fishing methods specified in the agreement; change the dates of fishing seasons for creeks, streams and rivers in certain northeastern South Dakota counties as the Saturday closest to April 21 through December 31, inclusive; remove out-of-date special limit restrictions for walleye, sauger, and walleye-

sauger hybrids on Lake Oahe, remove Orman Dam from the list of lakes subject to a 14-inch maximum length limit for walleye, sauger, and walleye-sauger hybrids, add Curlew Lake to the list of waters with a 15-inch minimum length limit for largemouth bass, add Reetz, Horseshoe, and Waubay Lakes, all in Day County, to the list of waters with a 12 to 18 inch protected slot for largemouth and smallmouth bass, with a combined daily limit of three fish and no more than one fish being 18 inches or greater in length, change the length limits for the protected slot for smallmouth bass in Lake Sharpe from 12 to 18 inches to 14 to 18 inches, revise the limits for South Dakota/Iowa boundary waters to make the daily and possession limits the same as those established for species in inland waters with the exception of catfish (daily limit of 15 and possession limit of 30) and closing the season for sturgeon and paddlefish; increase the number of resident paddlefish tags by 200 to a total of 1,550 tags, change the season from the current 30 consecutive days starting October 1, to October 1 through October 31, inclusive, and allow Nebraska residents licensed to fish in Nebraska or who are exempt from having to comply with Nebraska licensing requirements to use a South Dakota non-resident paddlefish tag without having to purchase a South Dakota non-resident fishing license; change the starting date for spearing rough fish in certain northeastern South Dakota counties from the last Saturday in April to the Saturday closest to April 21, change season dates and open areas for spearing game fish on Lakes Francis Case, Sharpe, Oahe, Belle Fourche, Angustora and Pactola (excluding salmonids in Pactola), and the Eastern South Dakota spearing lakes, add sturgeon as an exception to spearing along with paddlefish, and specify gear for taking game fish as legal spearguns and spears (removes archery), and repeal the specific rule which allows spearing of largemouth bass in Pactola Reservoir since other proposed changes to the spearing rules will allow spearing of game fish (except salmonids) in Pactola Lake; declare catfish taken from the inland waters of the Missouri River and its impoundments to be rough fish and delete "after December 31, 1991" at the end of the last sentence of the current rule, limit to two the number of set lines that can be used in South Dakota/Nebraska boundary waters, and clarify that the 15-inch minimum length limit for catfish caught on South Dakota/Nebraska boundary waters is for catfish caught on setlines only; remove Lake Andes North Unit in Charles Mix County from the list of waters open to taking of bait other than from May 1 through July 31; clarify that a person who has been issued a permit to hunt by falconry or a person accompanying the permittee may lawfully carry a pistol while hunting if in possession of a valid concealed pistol permit issued pursuant to state law; provide that a private fish hatchery licensee who submits a license renewal application does not have to prove compliance with the criteria for approval of the application if the hatchery facility and the waters included therein remain unchanged from the application approved in the preceding year; remove the exception of white suckers, creek chubs, fathead minnows, and golden shiners from the requirement for a fish importation permit, meaning no fish species used as bait could be imported into South Dakota without a permit; establish a definition of "blind or visually impaired," include blind or visually impaired persons in the legal definition of "total disability," thus making such persons eligible for reduced fee resident small game and fishing licenses, require a person seeking "blind or visually impaired" status to provide the Department with a written statement in support of the person's qualification for that status from a licensed physician or board licensed optometrist, and establish a definition for a "designated shooter permit" and the authorities, limitations and conditions of the designated shooter permit; and specifically prohibit catch and release tournaments for walleye and salmon from June 1 through September 15, rather than listing the prohibition as a special condition of approval and issuance of a fishing tournament permit.

Representative Hundstad

Department of Revenue and Regulation: South Dakota Lottery Commission - Amend rules to adopt the Multi-State Lottery Association Hot Lotto Game Group rules that were approved on August 28, 2007.

Department of Transportation - Amend a speed zone in Brookings County on US Highway 14 in the City of Brookings to reduce speed limits for traffic along the area off recent commercial development at the west of the Interstate 29 interchange.

Department of Revenue and Regulation: Division of Banking - Repeal current rules regarding loans to bank officers; reduce the time period that banks can hold overdrafts on their books as an asset; allow other retention methods for records required to be kept by banks; repeal the rules related to remote electronic banking as the law implemented for each rule was previously repealed; make the references to responsible parties consistent for mortgage lending entity applicants; add a reference to the right of a hearing to contest the denial of a license or registration based upon the results of the required criminal background investigation; provide for bond forms that reflect the name of an individual in addition to forms that reflect the name of an entity and language necessary only for the implementation of SB 165 will be deleted.

10:30 a.m. Break

Senator Hunhoff

Department of Health: Health and Medical Services - Amend rules that will enhance preparedness for influenza pandemic and improve the responses to other Notifiable Diseases.

Department of Human Services: Rehabilitation Services - Amend rules that will add new definitions, clarify and expand the covered services to include implants in both ears, clarify and expand the eligibility criteria to include individuals through age 20 with one existing implant or an individual through age 20 with a documented progressive hearing loss leading to deafness after speech and language have developed, and clarify the application process.

Representative Lust

Public Utilities Commission: One-Call Notification - Amend rules to update Routine Locate requests to reflect the technological changes in processing these requests and reflect changes in the statute and to define Service Lateral; clarify the method of input for facility operator information and change the approval process from the vendor operating the Center to the South Dakota One Call Notification Board; clarify that the facility operator must accept notification of excavations from the center; require that all underground facilities installed after January 1, 2008, must be locatable within eighteen inches, horizontally, from the exterior sides of the marked facility; clarify the period in which the billing for a ticket transmission may be disputed; allow for the use of mile marker references on state and federal highways to be used as a means to identify the location of the excavation site when initiating a routine locate request, a planned excavation locate request, and an informational locate request; establish minimum marking standards for all underground facilities and specific standards for marking service laterals on all underground facilities; and clarify the processes and procedures of the vendor operating the one-call system to insure that the rules reflect the technologies currently available from the one-call system.

Representative Lust

Department of Social Services: Child Protection Services - Amend rules relating to the operation of the central registry by the Division of Child Protection Services to specify that the term "central registry" refers to parents, guardians, and custodians who have abused or neglected children; specify that when the Department receives a report of a suspected case of child abuse or neglect the Department will obtain evidence to assess the accuracy of the allegations contained in the report; allow documentation to be in electronic format; clarify that the identifying information placed into the central registry is collectively referred to as a record; expand the examples of crimes (to include child abuse or neglect; sex offenses; possession, solicitation, manufacture, or distribution of child pornography; or incest) that allow for placement of a record into the central registry if an individual is found guilty of such crime; after the Department investigates and substantiates a report and at least 30 days before a record is placed on the central registry, require the Department to send a written notice by certified mail to the individual informing the individual of the Department's intent to place the record into the central registry; specify that the 30-day period begins on the date the individual receives the notice or on the last day the post office attempts delivery; remove language from existing rules and repeal rules that refer to an informal review process; if a fair hearing results in finding for the individual, limit Department actions to either correcting the inaccurate information or removing the record; allow an individual to request removal of a record after five years if the record has been on the central registry for at least five years and placement into the central registry was the result of a substantiated report of child abuse or neglect, a court finding of child abuse or neglect, or because the individual was found guilty of a crime committed against a child; require the individual to prove by a preponderance of the evidence that the record should be removed; specify the types of information the Department reviews when considering whether to remove a record from the central registry after a period of five years; provide notice to the individual informing the individual of the Department's decision to remove a record; allow an individual to request a hearing if the request is denied; if a request to remove a record is denied, require the individual to wait two years before making a subsequent request to have a record removed; and specify those individuals who are prohibited from requesting removal of a record from the central registry.

Department of Social Services: Economic Assistance - Amend Food Stamp Program rules to increase the standard utility allowance for Food Stamp households responsible for paying heating and cooling expenses; increase the standard telephone allowance for Food Stamp households not eligible for the standard utility allowance but billed for a telephone; increase the limited utility allowance for Food Stamp households not eligible for the standard utility allowance but which incurs expenses for at least two separate types of utilities; and increase the one-utility allowance for those Food Stamp households not eligible for either the standard or limited utility allowance but which incurs an expense for one type of utility, not including a telephone.

Department of Social Services: Office of the Secretary - Amend and adopt rules relating to the recovery of funds expended by the Department on behalf of children in alternative care settings and individuals in long-term care when establishing the fee charged to the parents of a child placed into alternative care, clarify what information the Department uses to determine the parents' income; provide a mechanism for establishing the parents' income if the parent fails to complete and return to the Department an income statement; specify that the fee charged and ultimately subject to recovery by the Department may not exceed the actual costs of caring for the child; allow the Department to waive the

alternative care fees under certain circumstances; when making a recovery against an individual's estate, specify that the amount of the recovery will be reduced if the individual had a long-term care partnership insurance policy that paid for services; specify how the amount of the reduction is determined; and specify that the amount of the reduction may not exceed the amount paid under the long-term care partnership insurance policy.

Department of Social Services: Medical Services - Amend rules relating to psychiatric residential treatment to delete the definition of "care manager"; define the terms "certification team," "DSM-IV," and "placing agency"; no longer allow Title XIX reimbursement for group care centers providing residential treatment; allow reimbursement to an out-of-state psychiatric residential treatment facility that obtains certain, specified accreditation from the Joint Commission, the Council on Accreditation, or the Commission on Accreditation of Rehabilitation Facilities; if treatment begins before the individual reaches age 21, allow the treatment to continue to be a covered service until the date it is no longer needed or the date the individual reaches age 22, whichever occurs earlier; specify that the state review team and the certification team must determine that the conditions of eligibility have been met for admission to and treatment in a psychiatric residential treatment facility; require certain state agencies to have representatives on the state review team; specify the responsibilities of the state review team; require the certification team to have at least one medical doctor and require that all team members be knowledgeable about the diagnosis and treatment of the mental illnesses of children; list the responsibilities of the certification team; establish a list of DSM-IV diagnostic codes recognized for treatment and specify that an individual must be experiencing problems relating to the individual's DSM-IV diagnosis; require the certification team to prior approve an individual's admission to a facility and, for emergency admissions, allow the certification team to complete its review on the first working day following the admission; require a provider to notify a child's placing agency in advance of treatment team meetings and within 24 hours of the occurrence of certain, specified incidents; delete references to group care centers; require the certification team to approve an individual's continuous and uninterrupted stay in a facility if certain conditions are met; limit covered services to those authorized by the certification team; specify that reimbursement for the day of discharge, days the individual is in a juvenile detention center, and days when the individual is absent for non-medical reasons are not reimbursable; specify that services will be terminated if the certification team determines that the individual has reached maximum potential, the facility failed to provide necessary documentation, or the individual is no longer eligible; base a provider's rate of payment on cost data; allow a claim to be submitted electronically; and specify the procedure code that must be used if submitting a claim for services.

12:00 p.m. Adjourn

Members: Senators Jean M. Hunhoff, Jim Hundstad, and Orville B. Smidt; and Representatives Roger W. Hunt, David Lust, and Bill Thompson.

NOTE: *Individuals needing assistance, pursuant to the Americans with Disabilities Act, should contact the Legislative Research Council (605/773-3251) in advance of the meeting to make any necessary arrangements.*



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