

# REGISTER



*South Dakota Legislative Research Council*

*Volume 33*

*Monday, 8:00 a.m., March 26, 2007*

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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:***

(March 20, 2007) intends to amend a License Forms and Fees rule to increase the license fee for a trophy bull bison license to \$5,000 beginning with the 2008 season; amend a Pheasant Hunting Season rule to establish season dates, open areas, shooting hours, daily bag limit and possession limit; incorporate Butte, Meade, Lawrence and western Pennington counties (previously designated as Unit 2) with the rest of the state to create one statewide pheasant hunting unit; and change the shooting hours to be noon to sunset through October 31, and beginning on November 1, from 10:00 a.m. to sunset for the remainder of the season; amend a Quail Hunting Season rule to establish season dates, open area, shooting hours, daily bag limit and possession limit; and expand the open area from the eight existing counties to the entire state; amend Sandhill Crane Hunting Season rules to establish season dates, open areas, shooting hours, daily bag limit and possession limit; and remove the requirement that a person obtain a special sandhill crane hunting permit; amend a Black Hills Elk Hunting Season rule to establish season dates for “any elk” and “anterless elk” (first and second season) licenses, types and number of available licenses, open areas, and shooting hours; and adjust the unit boundary for Unit H9; amend Landowner Preference (Black Hills Elk, Archery Elk, and Prairie Elk Hunting Seasons) rules to retain the requirement that an applicant for landowner-operator preference own or operate a minimum of 240 acres within

an elk unit but will raise the threshold of elk use from 200 to 500 elk-use days; will remove criteria for landowners to qualify for preferences and under “severe elk depredation” and “hardship” situations; will change the “non-hardship” landowner preference eligibility from every third year to every year; will require that qualifying property be located within an elk hunting unit; will clarify that the 9-year license ineligibility period applies only to individuals who drew an elk license in the first lottery drawing in the nine preceding years; and provide a process by which landowners can appeal eligibility decisions; amend a Mountain Goat Hunting Season rule to close the mountain goat hunting season; amend a Cottontail Rabbit Hunting Season rule to establish season dates, open area, daily bag limit and possession limit; and extend the existing exemption for landowners hunting cottontail rabbits on their own land to licensed hunters acting as agents of landowners; amend a Custer State Park Coyote Hunting Season rule to close the coyote hunting season in Custer State Park; amend an Archery Elk Hunting Season rule to establish season dates for “any elk” and “anterless elk” (Black Hills Units and Unit 30A) licenses, types and number of available licenses, open areas, and shooting hours; adjust the unit boundary for Unit H9; and expand the season dates in Unit 30A to include the last 17 days of August; amend a Special Custer State Park Anterless Elk Hunting Season rule to establish season dates, shooting hours, hunting requirements and restrictions, and decrease the number of available licenses from 100 to 60 for the first two seasons (25 tags for first season, 35 tags for second season), with a possible third season to allow for additional harvest if deemed

necessary; amend a Youth Pheasant Hunting Season rule to establish eligibility requirements, season dates, open areas, shooting hours, daily bag limit, and increase the possession limit from 6 to 9 cock pheasants; add one additional day to the season; amend a Black Hills Bighorn Sheep Hunting Season rule to establish eligibility requirements, season dates, open areas, shooting hours, and increase by one the number of available licenses; and Amend a Prairie Elk Hunting Season rule to establish season dates for “any elk” and “anterless elk” licenses, types and number of available licenses, open areas, and shooting hours in the open units; and expand the season dates in Unit 30A to include the last 17 days of August. The general authority for these rules, as cited by the department, is SDCL 41-2-18, 41-6-10, 41-6-18.4, 41-6-19.6, 41-6-21, 41-11-5, and 41-17-1.1.

A public hearing will be held at the City Hall, 504 River Drive, North Sioux City, South Dakota, on April 12, 2007, at 2:00 p.m. 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 Noon 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 e-mail to [chuck.schlueter@state.sd.us](mailto:chuck.schlueter@state.sd.us). E-mail 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.

**Department of Health:** (March 20, 2007) intends to amend a rule to ensure that Children’s Special Health Services is using the current poverty guidelines in determining cost share eligibility as a part of financial assistance to

eligible clients. The general authority for this rule, as cited by the department, is SDCL 34-1-21.

A public hearing will be held at the State Health Laboratory Building, small conference room, 615 East 4<sup>th</sup> Street, Pierre, South Dakota, on April 16, 2007, at 10:00 a.m. to consider the adoption and amendment of proposed rules. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Health, 600 East Capitol Avenue, Pierre, South Dakota 57501. Copies of the proposed rules may also be obtained at the Health Department website: <http://www.state.sd.us/doh/News/index.htm>. Material sent by mail must reach the department by April 26, 2007, 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) 773-3361 at least 48 hours before the hearing.

**Department of Education: Board of Education:** (March 22, 2007) intends to adopt rules to formalize the Teacher Compensation Oversight Board, program guidelines, and application requirements. The general authority for these rules, as cited by the board, is HB 1171, Sections 1-3, 2007.

A public hearing will be held in the Digital Dakota Network – Pierre A at the Capitol Building, 500 East Capitol Ave., Pierre, South Dakota, on April 11, 2007, at 2:00 p.m. CDT. Copies of the proposed rules may be obtained without charge from the Department of Education, South Dakota Board of Education, 700 Governors Drive, Pierre, South Dakota 57501-2291 or on the Internet at <http://doe.sd.gov/secretary/adminrules/index.asp>. Written comments may be sent to the board at the address above and must be received by April 10, 2007, 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) 773-3426 at least 48 hours before the hearing.

**FILINGS IN THE SECRETARY OF STATES OFFICE:**

**Executive Order:**

The Governor has signed **Executive Order 2007-06** dated March 23, 2007. This order declares that the offices for state government, within the executive branch, shall be administratively closed for the afternoon of Friday, April 6, 2007.

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**

3-28-2007	Health	Amend rules to add cystic fibrosis (CF) to the mandated newborn screening panel and to defer the timing of collection for repeat newborn screening specimens due to transfusions to the designated laboratory testing protocols; 33 SDR 143.
4-2-2007	Agriculture	Amend the <i>SOUTH DAKOTA CERTIFIED™</i> rules including: provide the necessary rules to establish the <i>SOUTH DAKOTA CERTIFIED™</i> natural beef program and the <i>SOUTH DAKOTA CERTIFIED ENROLLED CATTLE™</i> natural program; the specific natural processing requirements, limitations and definitions for beef ; the specific natural feeding requirements, limitations and definitions for cattle; and the limitations for hormones and antibiotics; 33 SDR 147.
4-5-2007	Labor: Retirement System	Amend rules to limit the refund of contributions after a stream of benefit payments in certain circumstances, to reconfigure the process of administrative appeals, to allow the refund of contributions in certain circumstances, to provide for administration of service purchase contracts during administrative leave, to confirm that member service coincides with employer report dates, to rectify legal provisions regarding termination of a period of disability in certain circumstances, to remove the need for a special board appointment in certain circumstances, to conform with federal law

		regarding rollovers of beneficiary payments, to clarify certain aspects of participation by elected officials, to conform with federal law regarding benefit payment limits, to conform with federal law regarding certain payouts, to clarify the legality of certain eligible retirement plans, to clarify the order of certain beneficiary payments, and to allow certain legal assignment of benefits; 33 SDR 151.
4-11-2007	Education: Board of Education	Adopt rules to formalize the Teacher Compensation Oversight Board, program guidelines, and application requirements; 33 SDR 156.
4/12/2007	Game, Fish and Parks	Amend a License Forms and Fees rule to increase the license fee for a trophy bull bison license to \$5,000 beginning with the 2008 season; amend a Pheasant Hunting Season rule to establish season dates, open areas, shooting hours, daily bag limit and possession limit; incorporate Butte, Meade, Lawrence and western Pennington counties (previously designated as Unit 2) with the rest of the state to create one statewide pheasant hunting unit; and change the shooting hours to be noon to sunset through October 31, and beginning on November 1, from 10:00 a.m. to sunset for the remainder of the season; amend a Quail Hunting Season rule to establish season dates, open area, shooting hours, daily bag limit and possession limit; and expand the open area from the eight existing counties to the entire state; amend Sandhill Crane Hunting Season rules to establish season dates, open areas, shooting hours, daily bag limit and possession limit; and remove the requirement that a person obtain a special sandhill crane hunting permit; amend a Black Hills Elk Hunting Season rule to establish season dates for “any elk” and “anterless elk” (first and second season) licenses, types and number of available licenses, open areas, and shooting hours; and adjust the unit boundary for Unit H9; amend Landowner Preference (Black Hills Elk, Archery Elk, and Prairie Elk Hunting Seasons) rules to retain the requirement that an applicant for landowner-operator preference own or operate a minimum of 240 acres within an elk unit but will raise the threshold of elk use from

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4-16-2007	Health	Amend a rule to ensure that Children’s Special Health Services is using the current poverty guidelines in determining cost share eligibility as a part of financial assistance to eligible clients; 33 SDR 156.
4-19-2007	Environment and Natural Resources: Board of Minerals and Environment	Amend air pollution control program rules to comply with revision to the federal regulations; 33 SDR 151.

### RULES REVIEW COMMITTEE MEETINGS

The 2007 interim meeting schedule for the Interim Rules Review Committee will be set by the chair at the end of the Eighty-second Legislative Session (March 26, 2007). Watch for a notice of these meeting dates in the Register and on the LRC website.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the Legislative Web site.