

# REGISTER



## South Dakota Legislative Research Council

Volume 37

Monday, 8:00 a.m., March 28, 2011

**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 21, 2011) intends to amend a Uses of Parks and Public Lands rule to remove the requirement that the shooting range on the Rollings Game Production Area in Lincoln County be supervised during those times when it is open to the public; amend an Archery Deer Hunting Season rule to adjust the season dates from "the fourth Saturday of September to January 31" to "the fourth Saturday of September to January 15"; amend a Black Hills Elk Hunting Season rule to adjust the number of licenses available from 495 "any elk" and 570 "antlerless elk" licenses (total of 1,065 licenses) to 470 "any elk" and 395 "antlerless elk" licenses (total of 865 licenses); amend a Custer State Park Elk Hunting Season (Any Elk) rule to adjust the number of licenses available from 21 "any elk" licenses to 11 "any elk" licenses; amend a Custer State Park Early Archery Elk Hunting Season rule to adjust the number of licenses available from 5 "any elk" licenses to 3 "any elk" licenses; amend a Custer State Park Deer Hunting Season rule and a License Forms and Fees rule to modify the type of license available in Unit CUD-CU1 from 10 "any whitetail deer and an antlerless whitetail deer" licenses to 10 "any whitetail deer licenses"; reduce the number of available licenses in Unit CUD-CU3 from 35 two-tag "muzzleloader antlerless whitetail deer licenses" to 35 one-tag "muzzleloader antlerless whitetail deer licenses"; establish the license fee for the one-tag Custer State Park "any whitetail deer" license at \$150 and the license fee for the Custer State Park "muzzleloader whitetail antlerless

deer" license at \$25; amend an Archery Elk Hunting Season rule to establish the number of licenses for "any elk" and "antlerless elk" (Black Hills Units and Unit 30A) licenses by adjusting the number of licenses available from 96 "any elk" and 49 "antlerless elk" licenses (total of 145 licenses) to 89 "any elk" and 37 "antlerless elk" licenses (total of 126 licenses); amend a Youth Deer Hunting Season rule to adjust the season dates from "the second Saturday of September to January 31" to "the second Saturday of September to January 15"; amend a General Muzzleloading Deer Hunting Season rule to adjust the season dates from "the second Saturday of December to January 31" to "December 1 to January 15"; amend a Special Custer State Park Antlerless Elk Hunting License rule to close the special Custer State Park antlerless elk season for 2011; amend a Custer State Park Late Archery Elk Hunting Season rule to reduce the number of "any elk" licenses available from 30 licenses to 15 licenses; amend a Black Hills Bighorn Sheep Hunting Season rule to reduce the number of licenses available in Unit "1" from 4 "any bighorn sheep" licenses to 2 "any bighorn sheep" licenses; amend a Prairie Elk Hunting Season rule for "any elk" and "antlerless elk" licenses (Units 09A, 11A, 11B, 11C, 15A, and 30A) to adjust the total number of licenses available from 50 "any elk" and 86 "antlerless elk" licenses (total of 136 licenses) to 49 "any elk" and 79 "antlerless elk" licenses (total of 128 licenses); modify Unit 11 (Bennett County) to include that portion of Mellette County south of Highway 44 and west of Highway 83; adjust the start date of Unit 11A from August 1 to July 15; and adjust the season dates for Unit 15A (portions of Butte County) to begin on the second Saturday of September through

October 31 and from December 1 – 31; amend Persons with Disabilities rules to make persons who have a developmental disability as defined in SDCL 27B-1-18 eligible for a reduced fee fishing license and provide for a procedure which would allow an applicant with a developmental disability to submit an official letter or form from the South Dakota Department of Social Services documenting the person's developmental disability and eligibility for services in lieu of submitting a written statement from a doctor of medicine, osteopathy, or chiropractic with their application for a reduced fee fishing license; and amend a Hunting Requirements and Prohibited Methods rule to require use of nontoxic shot for hunting small game on public road rights-of-way. The general authority for these rules, as cited by the department, is SDCL 41-2-18, 41-6-10, 41-6-10.2, 41-6-18.4, 41-6-19.6, 41-6-21, and 41-17-1.1.

A public hearing will be held at the Holiday Inn Express, 1103 N. Splitrock Blvd., Brandon, South Dakota, on April 7, 2011, at 2:00 p.m. (CDT). 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.

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

**Executive Appointments:**

**Harry W. Christianson**, Rapid City, was appointed on March 23, 2011, to the **South Dakota Commission on Gaming**, to replace Mike Ortner, effective April 15, 2011, and shall continue until April 14, 2014.

**Douglas A. Nelson**, Sioux Falls, was appointed on March 23, 2011, to the **South Dakota Real Estate Commission**, to replace Eileen Fischer, effective April 12, 2011, and shall continue until April 11, 2014.

**Frank J. Stork**, Des Moines, Iowa, was appointed on March 23, 2011, to the **South Dakota Risk Pool Governing Board**, to replace Janet Griffin, effective March 21, 2011.

**Bob L. Sutton**, Pierre, was appointed on March 24, 2011, to the **South Dakota Ellsworth Development Authority**, to replace Gary Grittner, effective March 21, 2011, and shall continue until January 19, 2015.

**Correction – 37 SDR 166:** Dennis Eisnach's reappointment to the South Dakota Real Estate Commission was effective April 11, 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**

4-7-2011	Labor: South Dakota Retirement System	Amend rules to clarify a "reentry" into the System for purposes of redeposit; explain the
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		<p>application of member "years of service" after a participating unit is privatized; establish when a retired member may choose to alter the member's choice of annuity options; set out a refunding member's rollover options; clarify a member's ability to continue the additional survivor protection program; and adopt the federal "reasonable and good faith" safe harbor for distributions from SDRS programs; 37 SDR 171.</p>
<p>4-7-2011</p>	<p>Game, Fish and Parks</p>	<p>Amend a Uses of Parks and Public Lands rule to remove the requirement that the shooting range on the Rollings Game Production Area in Lincoln County be supervised during those times when it is open to the public; amend an Archery Deer Hunting Season rule to adjust the season dates from "the fourth Saturday of September to January 31" to "the fourth Saturday of September to January 15"; amend a Black Hills Elk Hunting Season rule to adjust the number of licenses available from 495 "any elk" and 570 "antlerless elk" licenses (total of 1,065 licenses) to 470 "any elk" and 395 "antlerless elk" licenses (total of 865 licenses); amend a Custer State Park Elk Hunting Season (Any Elk) rule to adjust the number of licenses available from 21 "any elk" licenses to 11 "any elk" licenses; amend a Custer State Park Early Archery Elk Hunting Season rule to adjust the number of licenses available from 5 "any elk" licenses to 3 "any elk" licenses; amend a Custer State Park Deer Hunting Season rule and a License Forms and Fees rule to modify the type of license available in Unit CUD-CU1 from 10 "any whitetail deer and an antlerless whitetail deer" licenses to 10 "any whitetail deer licenses"; reduce the number of available licenses in Unit CUD-CU3 from 35 two-tag "muzzleloader antlerless whitetail deer licenses" to 35 one-tag "muzzleloader antlerless whitetail deer licenses"; establish the license fee for the one-tag Custer State Park "any whitetail deer" license at \$150 and the license fee for the Custer State Park "muzzleloader whitetail antlerless deer" license at \$25; amend an Archery Elk Hunting Season rule to establish the number of licenses for "any elk" and "antlerless elk" (Black Hills</p>

	<p>Units and Unit 30A) licenses by adjusting the number of licenses available from 96 "any elk" and 49 "antlerless elk" licenses (total of 145 licenses) to 89 "any elk" and 37 "antlerless elk" licenses (total of 126 licenses); amend a Youth Deer Hunting Season rule to adjust the season dates from "the second Saturday of September to January 31" to "the second Saturday of September to January 15"; amend a General Muzzleloading Deer Hunting Season rule to adjust the season dates from "the second Saturday of December to January 31" to "December 1 to January 15"; amend a Special Custer State Park Antlerless Elk Hunting License rule to close the special Custer State Park antlerless elk season for 2011; amend a Custer State Park Late Archery Elk Hunting Season rule to reduce the number of "any elk" licenses available from 30 licenses to 15 licenses; amend a Black Hills Bighorn Sheep Hunting Season rule to reduce the number of licenses available in Unit "1" from 4 "any bighorn sheep" licenses to 2 "any bighorn sheep" licenses; amend a Prairie Elk Hunting Season rule for "any elk" and "antlerless elk" licenses (Units 09A, 11A, 11B, 11C, 15A, and 30A) to adjust the total number of licenses available from 50 "any elk" and 86 "antlerless elk" licenses (total of 136 licenses) to 49 "any elk" and 79 "antlerless elk" licenses (total of 128 licenses); modify Unit 11 (Bennett County) to include that portion of Mellette County south of Highway 44 and west of Highway 83; adjust the start date of Unit 11A from August 1 to July 15; and adjust the season dates for Unit 15A (portions of Butte County) to begin on the second Saturday of September through October 31 and from December 1 – 31; amend Persons with Disabilities rules to make persons who have a developmental disability as defined in SDCL 27B-1-18 eligible for a reduced fee fishing license and provide for a procedure which would allow an applicant with a developmental disability to submit an official letter or form from the South Dakota Department of Social Services documenting the person's developmental disability and eligibility for</p>
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		services in lieu of submitting a written statement from a doctor of medicine, osteopathy, or chiropractic with their application for a reduced fee fishing license; and amend a Hunting Requirements and Prohibited Methods rule to require use of nontoxic shot for hunting small game on public road rights-of-way; 37 SDR 175.
4-12-2011	Public Safety: Office of the State Fire Marshal	Amend rules to adopt the 2009 edition of the International Building, Fire, and Mechanical Codes as the fire safety standards for the Department of Public Safety; 37 SDR 165.
4-21-2011	Agriculture: SD Weed & Pest Control Commission	Amend a rule to add flowering rush to the local noxious weed and declared pest list; 37 SDR 165.

### RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, March 29, 2011, in Room 413, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2011 interim: May 10, June 7, July 12, August 30, September 27, November 15, and December 12.

**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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