

REGISTER



South Dakota Legislative Research Council

Volume 31

Monday, 8:00 a.m., April 18, 2005

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

Attorney General: Law Enforcement Officers Standards Training Commission: (April 13, 2005) intends to adopt rules specifying the terms and conditions by which canines will be certified for use in law enforcement. The general authority for these rules, as cited by the commission, is SDCL 23-3-35.

A public hearing was held at the Rol Kebach Criminal Justice Training Center, Classroom 1, Pierre, South Dakota, on May 5, 2005, at 10:00 a.m. A copy of the proposed rules may be obtained without charge from and written comments sent to the Law Enforcement Officers Standards Commission, Division of Criminal Investigation, c/o Kim Knecht, 500 E. Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received by the close of business on May 3, 2005. Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-3584 before the hearing.

Department of Game, Fish and Parks: (April 14, 2005) has filed rules that will amend the exceptions on the restrictions on use of firearms and bows at Adams Homestead and Nature Preserve during certain times by an antlerless archery licensee and Preserve permittee, allow possession of bow and arrow at La Framboise Island and shotguns using shot shells and bow and arrow at Farm Island Recreation Area during certain times by licensed hunters, and prohibit deer hunting in state parks and recreation and nature areas during January 1-31; amend the special Custer State Park antlerless elk season by modifying the

number of tags available for the nine day January season; amend the National Wildlife Refuge deer seasons by establishing the number/type of licenses/tags for nonresident/residents in existing and new hunting units, establish and describe a new hunting unit with season dates, number/types of licenses/tags available, eligibility criteria (youth with a youth deer license), and hunting restrictions in a portion of Sand Lake National Refuge, reopen the Sand Lake National Wildlife Refuge hunting season during a portion of January to persons having unfilled licenses/tags for the unit and convert them to "antlerless deer" tags, and modify the hunting season dates at Lacreek National Wildlife Refuge; repeal and modify the Youth deer hunting season by limiting draw units and issuing unlimited number of licenses valid statewide to residents and nonresidents, restrict number of licenses issued to one person, and modify age eligibility requirements; amend the Black Hills deer hunting season to establish the number/types of resident and nonresident special deer licenses available in the special deer units (repeal the "any deer" licenses) and modify the hunting season dates for "antlerless deer" in the special deer units; amend Fall Wild Turkey hunting season by establishing and modifying hunting season dates in certain hunting units, establish the number/types of turkey licenses/tags available to residents and nonresidents in the applicable hunting units, modify, combine, and divide hunting units and their respective boundaries, and establish new hunting units in Hutchinson and Turner County; amend Special Canada Goose hunting season by repealing the special hunting units in Fall River, Custer, and Minnehaha County and include the property with in Unit 1, modify the season dates in Unit 11B (Bennett County), modify license type in

Unit 11A to be 3 tag license, and establish (lower) the number of licenses available in Unit 11B; amend the Nonresident Waterfowl licenses by modifying the numbering system for the applicable units, provide that certain Bennett County nonresident licenses are valid for the January Canada goose season, and modify the number of 3 day temporary nonresident waterfowl licenses available in the hunting units comprised of the counties of Potter, Stanley, Sully, Hughes, and Lyman by transferring a number of them to the unit comprised of the counties of Brown, Marshall, Roberts, Day, Grant, Clark, Codington, Deuel, and Hamlin; amend Tundra Swan hunting season by modifying the number of licenses available to residents and nonresidents; amend Hunting Requirements and Prohibited Methods by modifying conditions, restrictions, and prohibitions relating to "accompaniment" of a big game firearm licensee by a person not similarly licensed to hunt in the same area and at the same time of year and provide exemptions therefrom; amend Archery Restrictions by modifying conditions, restrictions, and prohibitions relating to "accompaniment" of a person licensed to hunt only by archery by a person not similarly licensed to hunt in the same area and at the same time of year and provide exemptions therefrom; and amend Public Water Zoning by designating the waters within Wilmarth Lake in Aurora County as a "no wake" zone. The general authority for these rules, as cited by the department, is SDCL 32-3A-1, 41-2-18, 41-6-18.2, 41-6-18.4, 41-6-21, 41-11-5, and 41-17-1.1.

A public hearing will be held at the Blue Bell Resort in Custer State Park, South Dakota, on May 5, 2005, at 2:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to John L. Cooper,

Secretary, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received prior to the hearing date. Comments may also be sent by e-mail to chuck.schlueter@state.sd.us. E-mail comments must include the commenter's name and address. 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:

Clark Hepper, Pierre, was reappointed on April 5, 2005, to the **State Plumbing Commission**, effective April 15, 2005, and shall continue until April 14, 2009.

Dale Bertsch, Pierre, was appointed on April 11, 2005, to the **Education Commission of the States**, effective immediately.

Rick Melmer, Pierre, was appointed on April 11, 2005, to the **Education Commission of the States**, effective immediately.

Tad Perry, Pierre, was appointed on April 11, 2005, to the **Education Commission of the States**, effective immediately.

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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| 4-21-2005 | Social Services: Medical Services | Adopt rules that will exempt certain additional medical services from cost sharing, including inpatient psychiatric and rehabilitation services |
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| | | and prescriptions filled or refilled with generic drugs; increase the amount of a recipient's cost share for certain physician, dental, podiatry, optometric, optical, and chiropractic services; increase the cost share amount for prescriptions filled or refilled with a brand-name drug; increase the cost-share for visits to a federally qualified health center (FQHC) or a rural health clinic (RHC); increase the cost-share for certain early and periodic screening, diagnosis, and treatment (EPSDT) services provided to individuals 19 years of age and over; for individuals 19 years of age and over who receive services under the EPSDT Program, establish a cost share for prescriptions filled with brand-name drugs; establish a cost share for non-emergency inpatient hospital services; increase the cost share for mental health services provided by independent mental health practitioners; and increase the cost share for services provided under the diabetes education program; 31 SDR 147. |
| 4-26-2005 | Agriculture: Animal Industry Board | Amend a rule to update the vaccinology related to rabies in dogs and to include cats in the importation requirements dealing with rabies; to control the spread of and eliminate trichomoniasis from cattle through restricting the sale, loan, lease, or importation of animals presenting the highest risk for this disease; place into regulation identification and record-keeping requirements for sheep and goat producers consistent with those the industry had enacted voluntarily in recent years in order to uniformly market their animals in efforts to control Scrapie, a transmissible spongiform encephalopathy of sheep and goats; 31 SDR 144. |
| 4-28-2005 | Transportation | Adopt rules for utility corridor management for relocation of utilities displaced as a result of a highway construction project; 31 SDR 153. |
| 4-29-2005 | Labor: Board of Accountancy | Amend a rule that will allow the board to collect the fees associated with the computerized Uniform CPA Examination from candidates, to be paid to the third party providers upon receipt of their services; 31 SDR 137. |

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| 4-29-2005 | Revenue and Regulation: Lottery Commission | Adopt rules that provide a process to have a video lottery machine declared obsolete and to remove the responsibility of licensees from having to provide associated equipment for a machine declared obsolete, and to allow video lottery operators to purchase non-critical associated equipment from sources not otherwise licensed by the Lottery; 31 SDR 151. |
| 4-29-2005 | Social Services: Energy Assistance | Amend rules that will amend the definition of "congregate living arrangement"; delete the requirement that a household must be directly affected by increased heating costs; specify that the designated head of the household for a congregate living unit is responsible for producing the information necessary to determine the household's eligibility; no longer require the household to produce a statement from the landlord that the household's rent has increased or is due to be increased because of heating costs; for non-self-employed households that do not qualify for LIEAP due to excess income, discontinue the practice of using an alternative method of calculating the household's income; for self-employed household's that do not qualify due to excess income but have experienced a change in circumstances, base the household's income on anticipated, rather than prior, income; consolidate the types of income excluded when computing a household's income; clarify that the exclusion of cash gifts are limited to cash received for recurring occasions such as birthdays and Christmas; when computing income for a self-employed household, include any net profit or loss and consider the household's income to be \$0 if the self-employment income calculations result in a loss; when establishing the benefit levels for eligible households, include the amount of funds available but no longer include the average cost to heat an 850 square foot house; change the deadline for determining eligibility to specify that the Department has 60 days after an application is received rather than 60 days from the date of the application; clarify that LIEAP funds may only be used to pay for unpaid energy bills; and clarify that a claim for |

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| | | energy assistance must be postmarked on or before May 15 in order to be considered; 31 SDR 152. |
| 5-2-2005 | Health | Adopt and amend rules to determine the application requirements for certified and informational copies of a vital record, acceptable proof of identity and the security features required on a certified or informational copy and adopt rules that will establish the requirements for a delayed certificate of marriage; 31 SDR 151. |
| 5-5-2005 | Attorney General: Law Enforcement Officers Standards Commission | Adopt rules regarding police canine team certification; 31 SDR 157. |
| 5-5-2005 | Game, Fish and Parks | Amend the exceptions on the restrictions on use of firearms and bows at Adams Homestead and Nature Preserve, at La Framboise Island, and at Farm Island Recreation Area, and prohibit deer hunting in state parks and recreation and nature areas during January-1-31; amend the special Custer State Park Antlerless Elk season; amend the National Wildlife Refuge Deer seasons; modify the Youth Deer Hunting season; amend the Black Hills Deer Hunting season; amend the Fall Wild Turkey Hunting season and establish new hunting units in Hutchinson and Turner County; amend the Special Canada Goose Hunting season by repealing the special hunting units in Fall River, Custer, and Minnehaha County and include the property within Unit 1, modify the season dates in Unit 11B (Bennett County), modify license type in Unit 11A to be 3 tag license, and establish (lower) the number of licenses available in Unit 11B; amend the Nonresident Waterfowl licenses by modifying the numbering system for the applicable units, provide that certain Bennett County nonresident licenses are valid for the January Canada goose season, and modify the number of 3 day temporary nonresident waterfowl licenses available in the hunting units comprised of the counties of Potter, Stanley, Sully, Hughes, and Lyman by transferring a number of them to the unit comprised of the counties of Brown, Marshall, Roberts, Day, Grant, Clark, Codington, Deuel, and Hamlin; amend Tundra Swan hunting season by modifying the number of licenses |

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| 5-10-2005 | Labor: Division of Labor and Management | Update the Workers' Compensation Fee Schedule; 31 SDR 153. |
| 5-13-2005 | Secretary of State: Board of Elections | Amend rules to bring the petition to increase or decrease the number of county commissioners, confirmation mailing notice, voter registration form and instructions into compliance with statutory changes, set up guidelines for statutory change on acceptance of facsimile absentee ballot applications from UOCAVA voters, set up criteria for approving electronic ballot marking systems, set up parameters for voter registration verification with social security administration records, provide additional information on the provisional ballot envelope, provide agencies with a larger size voter registration, declination and instruction form to use; 31 SDR 151. |

Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Tuesday, April 19, 2005, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2005 interim: May 17, June 14, August 9, September 20, October 18, December 6, and January 9, 2006.

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

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