

REGISTER



South Dakota Legislative Research Council

Volume 32

Monday, 8:00 a.m., May 15, 2006

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

Department of Agriculture: (May 8, 2006) has filed rules to update the South Dakota Certified™ rules including: provide an exception for the enrollment of 2005 and 2006 cattle; change the license fee for processors/marketers from \$300/year to an annual fee of \$100/year and add a \$1 per animal processing fee; add a \$.50 transfer fee for each enrolled animal; provide the authority to the Secretary for denial of license; and update the feed requirements. The general authority for these rules, as cited by the department, is SDCL 39-24-6.

A public hearing will be held in the Foss Building, 1st floor, Matthews Training Center, Pierre, South Dakota, on June 2, 2006, at 10:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to South Dakota Department of Agriculture, Division of Agricultural Development, 523 E. Capitol Avenue, Pierre, South Dakota 57501. Material sent by mail must reach the department by June 12, 2006, 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) 773-5436 at least 48 hours before the public hearing.

Department of Health: Board of Examiners in Optometry: (May 9, 2006) intends to amend rules to set out specific standards to ensure competency of applicants for licensure by endorsement; increase by \$50 the annual renewal fee; to provide for a listing of procedures approved as within the scope of

practice of optometry; and to set specific standards to ensure competency of certain licensees seeking renewal of license. The general authority for these rules, as cited by the board, is SDCL 36-7-13, 36-7-15, 36-7-15.1, 36-7-15.2, 36-7-15.3, 36-7-20, and 36-7-31.

A public hearing will be held at Tieszen Law Office, LLP, 306 East Capitol, Suite 300, Pierre, South Dakota, on May 31, 2006, at 9:00 a.m. CST. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Examiners in Optometry, Executive Secretary, P.O. Box 628, Sturgis, South Dakota 57785. Written comments must be received by May 26, 2006, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the board can make arrangements are asked to call Tieszen Law Office, LLP, telephone (605) 224-1500 before the hearing.

Department of Military and Veteran Affairs: (May 11, 2006) has filed rules to allow the Secretary of DMVA to authorize couples where one is ambulatory and one is in a wheel chair, and allows applicants who utilize electric wheel chairs but have ability to take care of their own needs; amend the reapplication procedure for an individual who wants to be readmitted; amend rules to reflect current chain of command; establishes clearer sign out policy, when leaving the campus grounds; changes how sponsors/residents must arrange for meal tickets and use of the guest house or guest room; allow the superintendent to extend use of the guest house or guest room for residents family members if needed and to allow the guest house use for staff who have an emergency situation; clarify existing rules and allow superintendent

more latitude in meeting the needs of all residents, including those that have refrigerators, entertainment centers and computers; eliminates rule which no longer meets present day residents' needs and changes wording within the rule to reflect present administration chain of command; allow for a more reasonable time and way to handle AWOL; and to better explain how maintenance rent fees are calculated and applied. The general authority for these rules, as cited by the department, is SDCL 33-18-2.

A public hearing will be held in Building #3, 1st floor Auditorium, Michael J. Fitzmaurice South Dakota Veterans Home, 2500 Minnekahta Avenue, Hot Springs, South Dakota, on July 29, 2006, at 1:30 p.m. Copies of the proposed rules may be obtained from and written comments sent to the Michael J. Fitzmaurice South Dakota Veterans Home, 2500 Minnekahta Avenue, Hot Springs, SD 57747. Material sent by mail must reach the home by July 25, 2006, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the home can make arrangements are asked to call (605) 745-5127 at least 48 hours before the public hearing.

Department of Revenue and Regulation: Appraiser Certification Program: (May 11, 2006) has filed rules to remove contradictory language regarding the accumulation of appraisal experience, correct a typographical error, and adopt the most recent edition of the uniform standards. The general authority for these rules, as cited by the department, is SDCL 36-21B-3.

A public hearing will be held in the Department of Revenue and Regulation First Floor Conference Room, Anderson Building, Pierre, South Dakota, on June 9, 2006, at 1:30 p.m. A copy of the proposed rules may be obtained from and written comments sent to the Department of Revenue and Regulation, Appraiser Certification Program, 445 East Capitol Avenue, Pierre, South Dakota 57501-

3185. Material sent by mail must reach the department by June 8, 2006, to be considered at the public hearing. The department will keep the comment period open until June 19, 2006, for written comments. 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) 773-4608 at least 48 hours before the hearing.

Department of Game, Fish and Parks: (May 12, 2006) intends to amend rules to provide a licensing procedure for issuance of a preference point in a big game hunting season (other than elk, big horn sheep, or mountain goat) and establish the applicable fee therefore by license application for a hunting Unit for which no licenses are to be issued and authorize the Secretary to limit the sale of big game hunting licenses remaining unsold in specific Units after a second lottery under certain conditions and circumstances; amend the Black Hills Deer Hunting Season by modifying the types of deer that may be taken during the hunting season and applicable Units, establishing the number and types of licenses available in the applicable hunting Units, removing certain restrictions limiting the number of licenses that a person may acquire, modify certain hunting Unit boundaries, and adding a hunting Unit and establishing the number of licenses that are available for purposes of acquiring a preference point; amend West River Deer Hunting Season by establishing the number/types of resident and nonresident hunting licenses/tags available in the applicable modified, consolidated, and existing hunting Units, make modifications to the hunting season dates and extensions thereof in certain hunting Units, modifying the procedures for issuance of certain hunting licenses associated with landowner-operator licenses and establishing certain requirements, validity of licenses, and types of deer that may be taken, repealing the provision requiring issuance of "buck licenses to land occupant preference applicants if the number of

applications does not exceed the number of "buck" licenses available in a Unit, modify the Unit boundary for Unit 21B (Custer County), and adding a hunting Unit and establishing the number of licenses that are available for the purpose of acquiring a preference point; amend National Wildlife Refuge Deer Hunting Season by repealing all provisions relating to the youth hunter Unit (Unit RFD-SL1) and number of licenses which are available at Sand Lake National Wildlife Refuge and add a hunting Unit and establish the number of licenses that are available for the purpose of acquiring a preference point; amend Fall Wild Turkey Hunting Season by establishing the number/types of resident and nonresident hunting licenses/tags available in the applicable modified, consolidated, and existing hunting Unit, make modifications to the hunting season dates in certain hunting Units, permit hunters to acquire more than 1 license in the Black Hills Unit, add new Units in Minnehaha and Davison/Hanson Counties as shotgun or archery only hunting Units, expand Unit 17A (Charles Mix County) to also include Douglas County, combine Units 48A (Marshall County and portions of Day County, Unit 55A (Roberts County), and Unit 29A (northern Grant County) with the rest of Day County and all of Codington County to make 1 shotgun or archery only Unit and modify certain boundaries to this hunting Unit, and add a hunting Unit and establish the number of licenses that are available for the purpose of acquiring a preference point; amend General Provisions (Fishing Seasons and Methods) by defining "legal crossbow" to correspond with a change permitting it to be used in the taking of rough fish in certain inland waters in conformity with 2006 Legislation; amend Spearing by permitting the use of a legal crossbow for the spearing of rough fish in certain inland waters and make corresponding changes, revisions, and restrictions to several other sections relative to spearing, use of crossbow, and other fishing implements in certain waters of the state; amend Bait and Biological Specimens by authorizing the Secretary to impose certain restrictions in

the permit granted to a licensed resident wholesale bait dealer who commercially sells snapping turtles and western painted turtles; and amend Mountain Lion Hunting Season by modifying the dates for the hunting season and establishing the harvest limits for certain mountain lions and the restrictions/prohibitions applicable to harvesting of mountain lions in certain areas and under certain circumstances. 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 Mitchell Technical Institute Technology Center, 1800 East Spruce, Mitchell, South Dakota, on June 1, 2006, at 2:00 p.m. CDT. 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 by and in the office of the Secretary of the Department of Game, Fish and Parks on or before 12:00 Noon on May 22, 2006, 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. 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.

FILINGS IN THE SECRETARY OF STATES OFFICE:

DEPARTMENT OF EDUCATION: BOARD OF EDUCATION: 24:15:06:41; 24:43:08:12; and 24:43:11:08.

History-Notice: 32 SDR 149, March 6, 2006
 Hearing: March 27, 2006
 Filed: May 8, 2006
 Effective: May 28, 2006

Executive Appointments:

John Calvin, Watertown, was reappointed on May 2, 2006, to the **Board of Economic Development**, effective immediately and shall continue until April 19, 2010.

Greg Heineman, Sioux Falls, was reappointed on May 2, 2006, to the **Board of Economic Development**, effective immediately and shall continue until April 19, 2010.

Tony Klein, Pierre, was reappointed on May 2, 2006, to the **Board of Economic Development**, effective immediately and shall continue until April 19, 2010.

Gregory N. Wick, Rapid City, was reappointed on May 2, 2006, to the **Abstracters' Board of Examiners**, effective immediately and shall continue until April 1, 2009.

Victoria A. Wilds, Canton, was reappointed on May 2, 2006, to the **Abstracters/ Board of Examiners**, effective immediately and shall continue until April 1, 2009.

John Kranz, Mitchell, was reappointed on May 8, 2006, to the **Transportation Commission**, effective immediately and shall continue until April 18, 2010.

Tom Martinec, Pierre, was appointed on May 8, 2006, to the **South Dakota Risk Pool Governing Board**, to replace Jerry Hofer, effective immediately.

Dr. Willis Sutliff, Rapid City, was appointed on May 9, 2006, to the **South Dakota Medicaid P&T Committee**, to replace Dr. Heather Christianson, effective May 8, 2006.

Executive Order:

The Governor has signed **Executive Order 2006-06** dated April 27, 2006. The Secretary of the Department of Public Safety, under the authority of SDCL chapter 33-15, has adopted the South Dakota State Emergency Operations Plan which will provide for a coordinated and effective state response to emergency incidents. In this executive order, the Governor has formally adopted the plan as the framework for the state's response to emergencies and disasters.

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

5-19-2006	Revenue and Regulation: Business Tax	Update the law implemented and general authority for rules amended during the 2006 legislative session; amend the tax rate tables to reflect new rounding rules; and amend rules to include computer software as a product that may be purchased using the multiple points of use exemption and to add provisions for the seller to collect tax based on where the product will be used if agreed to by the purchaser; 32 SDR 187.
5-24-2006	Labor: Public Utilities Commission	Amend rules to set forth the requirements for telecommunications carriers to be designated as eligible telecommunications carriers

		(ETCs). Carriers designated as ETCs are eligible to receive federal high cost support in order to provide basic telephone services in their service areas. In addition, the proposed rule changes set forth the requirements for carriers previously designated as ETCs to obtain the certification necessary to continue to receive federal high-cost support; 32 SDR 187.
5-25-2006	Revenue and Regulation: Division of Insurance	Amend rules to clarify that certain guarantee issue standards only apply to coverages written before August 1, 2003, and repeal other rules; and to establish permissible policy language and disclosure forms; 32 SDR 190.
5-25-2006	Transportation	Amend a rule to extend the reduced speed limits farther to the north in Codington County on US Highway 81 at the north end of the City of Watertown; 32 SDR 191.
5-31-2006	Health: Board of Examiners in Optometry	Amend rules to set out specific standards to ensure competency of applicants for licensure by endorsement; increase by \$50 the annual renewal fee; to provide for a listing of procedures approved as within the scope of practice of optometry; and to set specific standards to ensure competency of certain licensees seeking renewal of license; 32 SDR 195.
6-1-2006	Game, Fish and Parks	Amend rules to provide a licensing procedure for issuance of a preference point in a big game hunting season (other than elk, big horn sheep, or mountain goat) and establish the applicable fee therefore by license application for a hunting Unit for which no licenses are to be issued and authorize the Secretary to limit the sale of big game hunting licenses remaining unsold in specific Units after a second lottery under certain conditions and circumstances; amend the Black Hills Deer Hunting Season by modifying the types of deer that may be taken during the hunting season and applicable Units, establishing the number and types of licenses available in the applicable hunting Units, removing certain restrictions limiting the number of licenses that a person may acquire, modify certain hunting Unit boundaries, and adding a hunting Unit and establishing the number of licenses that are available for purposes of acquiring a preference point; amend West River Deer

	<p>Hunting Season by establishing the number/types of resident and nonresident hunting licenses/tags available in the applicable modified, consolidated, and existing hunting Units, make modifications to the hunting season dates and extensions thereof in certain hunting Units, modifying the procedures for issuance of certain hunting licenses associated with landowner-operator licenses and establishing certain requirements, validity of licenses, and types of deer that may be taken, repealing the provision requiring issuance of "buck licenses to land occupant preference applicants if the number of applications does not exceed the number of "buck" licenses available in a Unit, modify the Unit boundary for Unit 21B (Custer County), and adding a hunting Unit and establishing the number of licenses that are available for the purpose of acquiring a preference point; amend National Wildlife Refuge Deer Hunting Season by repealing all provisions relating to the youth hunter Unit (Unit RFD-SL1) and number of licenses which are available at Sand Lake National Wildlife Refuge and add a hunting Unit and establish the number of licenses that are available for the purpose of acquiring a preference point; amend Fall Wild Turkey Hunting Season by establishing the number/types of resident and nonresident hunting licenses/tags available in the applicable modified, consolidated, and existing hunting Unit, make modifications to the hunting season dates in certain hunting Units, permit hunters to acquire more than 1 license in the Black Hills Unit, add new Units in Minnehaha and Davison/Hanson Counties as shotgun or archery only hunting Units, expand Unit 17A (Charles Mix County) to also include Douglas County, combine Units 48A (Marshall County and portions of Day County, Unit 55A (Roberts County), and Unit 29A (northern Grant County) with the rest of Day County and all of Codington County to make 1 shotgun or archery only Unit and modify certain boundaries to this hunting Unit, and add a hunting Unit and establish the number of licenses that are available for the purpose of</p>
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		acquiring a preference point; amend General Provisions (Fishing Seasons and Methods) by defining "legal crossbow" to correspond with a change permitting it to be used in the taking of rough fish in certain inland waters in conformity with 2006 Legislation; amend Spearing by permitting the use of a legal crossbow for the spearing of rough fish in certain inland waters and make corresponding changes, revisions, and restrictions to several other sections relative to spearing, use of crossbow, and other fishing implements in certain waters of the state; amend Bait and Biological Specimens by authorizing the Secretary to impose certain restrictions in the permit granted to a licensed resident wholesale bait dealer who commercially sells snapping turtles and western painted turtles; and amend Mountain Lion Hunting Season by modifying the dates for the hunting season and establishing the harvest limits for certain mountain lions and the restrictions/prohibitions applicable to harvesting of mountain lions in certain areas and under certain circumstances; 32 SDR 196.
6-2-2006	Agriculture: Agricultural Development	Update the South Dakota Certified™ rules including: provide an exception for the enrollment of 2005 and 2006 cattle; change the license fee for processors/marketers from \$300/year to an annual fee of \$100/year and add a \$1 per animal processing fee; add a \$.50 transfer fee for each enrolled animal; provide the authority to the Secretary for denial of license; and update the feed requirements; 32 SDR 195.
6-9-2006	Revenue and Regulation: Appraiser Certification Program	Amend rules to remove contradictory language regarding the accumulation of appraisal experience, correct a typographical error, and adopt the most recent edition of the uniform standards.; 32 SDR 196.
7-1-2006	Agriculture: Veterinary Medical Examining Board	Amend a rule to clarify the specific tasks allowed for registered veterinary technicians to perform; 32 SDR 183.
7-29-2006	Military and Veteran Affairs	Amend rules to allow the Secretary of DMVA to authorize couples where one is ambulatory and one is in a wheel chair, and allows applicants who utilize electric wheel chairs but have ability to take care of their own needs;

	<p>amend the reapplication procedure for an individual who wants to be readmitted; amend rules to reflect current chain of command; establishes clearer sign out policy, when leaving the campus grounds; changes how sponsors/residents must arrange for meal tickets and use of the guest house or guest room; allow the superintendent to extend use of the guest house or guest room for residents family members if needed and to allow the guest house use for staff who have an emergency situation; clarify existing rules and allow superintendent more latitude in meeting the needs of all residents including those that have refrigerators, entertainment centers and computers; eliminates rule which no longer meets present day residents' needs and changes wording within the rule to reflect present administration chain of command; allow for a more reasonable time and way to handle AWOL; and to better explain how maintenance rent fees are calculated and applied; 32 SDR 195.</p>
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RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, May 16, 2006, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2006 interim: June 13, August 29, September 28, December 5, and January 8, 2007.

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.