

# REGISTER



## South Dakota Legislative Research Council

Volume 36

Monday, 8:00 a.m., May 17, 2010

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

**Department of Education: South Dakota Professional Teachers Practices and Standards Commission:** (May 11, 2010) intends to amend rules to add sections to the Code of Ethics for Teachers that prohibits sexual activity with students and require that teachers exemplify high moral standards; and to accurately refer to the Secretary of the Commission as the Executive Secretary. The general authority for these rules, as cited by the department, is SDCL 13-43-20 and 13-43-25.

A public hearing will be held in the McKay Building, 800 Governors Drive, Pierre, South Dakota, on June 15, 2010, at 11:00 a.m. CST. Copies of the proposed rules may be obtained from and written comments sent to the Professional Teachers Practices and Standards Commission, 700 Governors Drive, Pierre, South Dakota 57501. Written comments must be received by the commission by June 1, 2010, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-3553 at least forty-eight hours before the hearing.

**Department of Game, Fish and Parks:** (May 14, 2010) intends to amend Fall Wild Turkey Hunting Season rules to establish season dates, shooting hours, open units, requirements, and restrictions; establish the number and types of licenses available which will include offering 835 fewer resident one-tag and 730 more resident two-tag "any turkey" licenses in East

River Prairie Units; consolidate the Stanley County Unit into the West River Prairie Unit; and create units for Deuel and Moody counties for the East River Prairie Season in which hunters may only use a shotgun with shot shells, a muzzle loading shotgun, or a bow and arrow; amend Black Hills Deer Hunting Season rules to establish season dates, shooting hours, open units, and requirement and restrictions; establish the number and types of resident and nonresident licenses available which will include offering residents 100 fewer and nonresidents 8 fewer "any deer" licenses than 2009; offering residents 500 fewer and nonresidents 40 fewer "any whitetail deer" licenses than 2009; offering residents 300 fewer and nonresidents 24 fewer "antlerless deer" licenses than 2009; and offering residents 1,400 fewer and nonresidents 112 fewer "antlerless deer" licenses than 2009; and offering residents 1,400 fewer and nonresidents 112 fewer "antlerless whitetail deer" licenses than 2009; amend West River Prairie Deer Season rules to establish season dates, shooting hours, open areas, requirements and restrictions; establish the number and types of resident and nonresident licenses/tags available, which will include adjusting resident license numbers by decreasing resident one-tag licenses by 500, increasing resident two-tag licenses by 3,150 (6,300 tags), and decreasing resident three-tag licenses by 4,520 (13,560 tags) compared to 2009; adjusting nonresident license numbers by decreasing nonresident one-tag licenses by 40, increasing nonresident two-tag licenses by 252 (504 tags), and decreasing nonresident three-tag licenses by 362 (1,086 tags) compared to 2009; clarify that Unit WRD-58D (not Unit WRD-58B) is excepted from the eight percent limitation on the maximum number of licenses

which may be issued to nonresident applicants; change the reference in the unit boundary description for Unit WRD-02A from "Viewfield-Hereford Rd" to "New Underwood Rd;" and create application requirements for qualifying farmers and ranchers to apply for and receive two free antlerless deer licenses as authorized by legislation passed during the 2010 legislative session; amend a Mink, Weasel, and Muskrat Trapping Season rule to establish season dates, open area, requirements and restrictions, and extend the date that trapping can occur on muskrat houses to March 15; amend Trapping Prohibitions rules to prohibit people from attempting to claim trap locations on public road right-of-ways or public land prior to the start of the mink season and is intended to provide all people an equal opportunity to trap mink on public road right-of-ways or public land; amend a Private Shooting Preserves rule to allow for the removal of the head, leg and sufficient plumage from birds harvested on a licensed private shooting preserve with certain restrictions; and amend a Captive Game Birds rule to add quail to the list of those game birds excluded from the identification marking requirement. The general authority for these rules, as cited by the department, is SDCL 41-2-18, 41-6-21, 41-8-20, and 41-11-5.

A public hearing will be held at the Cedar Shore Resort, 1500 Shoreline Drive, Oacoma, South Dakota, on June 3, 2010, 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:**

**John D. Fowler**, Elk Point, was reappointed on May 7, 2010, to the **State Historical Society Board of Trustees**, effective immediately and shall continue until April 15, 2013.

**Jeffery A. Hazard**, Sioux Falls, was appointed on May 7, 2010, to the **State Historical Society Board of Trustees**, to replace Elizabeth Squyer, effective May 6, 2010, and shall continue until April 15, 2013.

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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| 5-21-2010 | Human Services: Board of Social Work Examiners | Amend a rule to increase the exam fee for Social Worker Associate (Associate), Social Worker (Bachelor) and Certified Social Worker (Master) levels from \$200 to \$255 and for Certified Social Worker – Private |
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|           |   | Independent Practice (Clinical and Advanced Generalist) level from \$200 to \$285; 36 SDR 161.   |
| 5-21-2010 | Revenue and Regulation: South Dakota Lottery Commission                 | Amend rules to authorize the Lottery upon initial application to license retailers to sell both on-line and instant tickets by taking advantage of technology that is now available to the Lottery with the new online gaming system and related products and service contract, to set the fees for on-line and instant license applications and annual license renewal, to set communications fees retailers licensed after July 1, 2010 will be required to pay, and to set sales benchmarks for retailers to meet to obtain a credit for the communications fees; 36 SDR 169.   |
| 5-21-2010 | Environment and Natural Resources: Board of Water and Natural Resources | Repeal some sections of the Water Development District rules that are no longer valid due to legislative changes; 36 SDR 175.  |
| 5-21-2010 | Environment and Natural Resources: Board of Water and Natural Resources | Amend Consolidated Water Facilities Construction Program rules to allow the board to award assistance from other funding programs to applicants applying for assistance from the program if the applicant is eligible for assistance from the other funding programs; raise minimum rate thresholds needed to have an application considered by the board; and eliminate the requirement that the board may only make a final decision on the award of funds after at least 12 hours have passed since the application has been presented to the board; amend State Water Pollution Control Revolving Fund Program rules to establish a system within the program to award additional subsidy through the use of principal forgiveness; allow the board to award assistance from other funding programs to applicants applying for assistance from this program if the applicant is eligible for assistance from the other funding programs; modify the priority point criteria to award points for projects that qualify as green infrastructure, water or energy efficiency improvements or other environmentally innovative activity under the Act and other minor priority point adjustments; and change the application deadline from the 15 <sup>th</sup> of January, April, July, and October to the 1 <sup>st</sup> of |

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|           |   | January, April, July, and October and eliminate deadlines for applicants to submit a completed facilities plan; amend a Solid Waste Management Program rule to eliminate the requirement that the board may only make a final decision on the award of program funds after at least 12 hours have passed since the application has been presented to the board; and amend Drinking Water State Revolving Fund Program rules to establish a system within the program to award additional subsidy through the use of principal forgiveness; allow the board to award assistance from other funding programs to applicants applying for assistance from this program if the applicant is eligible for assistance from the other funding programs; modify the priority point criteria to award points for projects that qualify as green infrastructure, water or energy efficiency improvements or other environmentally innovative activity under the Act, eliminate points for the expansion of the service area of a community water system that is not operated by a municipality or sanitary district, and other minor priority point adjustments; and change the application deadline from the 15 <sup>th</sup> of January, April, July, and October to the 1 <sup>st</sup> of January, April, July, and October and eliminate deadlines for applicants to submit a completed facilities plan; 36 SDR 176. |
| 5-21-2010 | Labor: Board of Accountancy                               | Amend rules to update references; update reference to individual's certificate; update regional accreditation name, clarification of reciprocal license fee, and amendments to peer review to comply with the AICPA Peer Review Standards effective January 1, 2009; 36 SDR 176.   |
| 5-24-2010 | Social Services: Division of Medical Services             | Amend rules to revise definitions and modify the basis of reimbursement for inpatient and outpatient services; 36 SDR 183.   |
| 5-25-2010 | Environment and Natural Resources: Environmental Services | Amend Air Emission Fees rules to ensure the department maintains sufficient resources to implement the Title V air quality permit program and maintain the state's approval status from the EPA; 36 SDR 183.   |
| 6-3-2010  | Game, Fish and Parks                                      | Amend Fall Wild Turkey Hunting Season rules to establish season dates, shooting hours, open units, requirements, and restrictions; establish   |

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|  |  | <p>the number and types of licenses available which will include offering 835 fewer resident one-tag and 730 more resident two-tag "any turkey" licenses in East River Prairie Units; consolidate the Stanley County Unit into the West River Prairie Unit; and create units for Deuel and Moody counties for the East River Prairie Season in which hunters may only use a shotgun with shot shells, a muzzle loading shotgun, or a bow and arrow; amend Black Hills Deer Hunting Season rules to establish season dates, shooting hours, open units, and requirement and restrictions; establish the number and types of resident and nonresident licenses available which will include offering residents 100 fewer and nonresidents 8 fewer "any deer" licenses than 2009; offering residents 500 fewer and nonresidents 40 fewer "any whitetail deer" licenses than 2009; offering residents 300 fewer and nonresidents 24 fewer "antlerless deer" licenses than 2009; and offering residents 1,400 fewer and nonresidents 112 fewer "antlerless deer" licenses than 2009; and offering residents 1,400 fewer and nonresidents 112 fewer "antlerless whitetail deer" licenses than 2009; amend West River Prairie Deer Season rules to establish season dates, shooting hours, open areas, requirements and restrictions; establish the number and types of resident and nonresident licenses/tags available, which will include adjusting resident license numbers by decreasing resident one-tag licenses by 500, increasing resident two-tag licenses by 3,150 (6,300 tags), and decreasing resident three-tag licenses by 4,520 (13,560 tags) compared to 2009; adjusting nonresident license numbers by decreasing nonresident one-tag licenses by 40, increasing nonresident two-tag licenses by 252 (504 tags), and decreasing nonresident three-tag licenses by 362 (1,086 tags) compared to 2009; clarify that Unit WRD-58D (not Unit WRD-58B) is excepted from the eight percent limitation on the maximum number of licenses which may be issued to nonresident applicants; change the reference in the unit boundary description for Unit WRD-02A from "Viewfield-Hereford Rd" to</p> |
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| 6-15-2010 | Education: Professional Teachers Practices and Standards Commission | <p>Amend rules to add sections to the Code of Ethics for Teachers that prohibits sexual activity with students and require that teachers exemplify high moral standards; and to accurately refer to the Secretary of the Commission as the Executive Secretary; 36 SDR 189.</p>   |

### RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, June 8, 2010, in Room 414, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2010 interim: July 20, August 31, September 28, November 17, and December 20.

**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>.