

REGISTER



South Dakota Legislative Research Council

Volume 34

Monday, 8:00 a.m., May 19, 2008

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

Department of Health: Board of Pharmacy: (May 12, 2008) intends to amend and adopt rules to establish criteria to permit use of Board of Pharmacy registered technicians to operate a retail telepharmacy when connect to a licensed South Dakota central pharmacy using advanced technology, automation and design, and will establish criteria to permit a licensed South Dakota hospital pharmacy with 24-hour services to provide limited or part-time pharmacy services to small hospitals. The general authority for these rules, as cited by the board, is SDCL 36-11-11, 36-11-14, 36-11-34, 36-11-71, and 36-11-72.

A public hearing will be held in the Sylvan Room (ground floor) at Rapid City Regional Hospital, 353 Fairmont Blvd., Rapid City, South Dakota, on June 5, 2008, at 3:00 p.m. MDT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Board of Pharmacy, 4305 South Louise Ave., Suite 104, Sioux Falls, South Dakota 57106. Material sent by mail must reach the Board of Pharmacy on or before June 2, 2008, to be considered. Persons who have special needs for which the board can make arrangements are asked to call (605) 362-2737 before the hearing.

Department of Game, Fish and Parks: (May 15, 2008) intends to amend Application for License rules that would remove the 5 license limit after the third drawing for deer, antelope and turkey seasons for which a limited number of licenses are allocated per unit, and

make the leftover licenses available on a first-come, first-served basis and correct the reference in ARSD 41:06:01:09 to the rule subsection which establishes the fee which must be submitted with an application for a preference point from subdivision 41:06:02:03(48) to subdivision 41:06:02:03(49); 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 an increase of 500 resident and 40 nonresident one-tag "any turkey" licenses (14% increase of 540 tags over the number issued in 2007) in the Black Hills Unit, an increase of 244 resident one-tag and 400 resident two-tag "any turkey" licenses (8% increase of 644 tags over the number issued in 2007) in the Prairie Units, and an increase of 8 nonresident one-tag and a decrease of 16 two-tag "any turkey" licenses in the Prairie Units; combine Units 53A and 53B into one Unit 53A; combine Units 24A (Dewey County) and 64A (Ziebach County) into one Unit 24A; eliminate the split season for Units 44A and 44B (Lincoln County) and combine into one Unit 44A; and adjust the unit boundary for Units 49A and BH1; amend Black Hills Deer Hunting Season rules to establish season dates, shooting hours, open units, and requirements and restrictions; establish the number and types of resident and nonresident licenses available which will include offering residents 100 and nonresidents 8 fewer "any antlerless deer" licenses than were authorized in 2007, and offering residents 450 fewer and nonresidents 36 fewer "antlerless whitetail" licenses than were authorized in 2007; amend West River Deer Hunting Season rules to establish season dates, shooting hours, open units, requirements and restrictions;

establish the number and types of resident and nonresident licenses/tags available, which will include adjusting license numbers in 24 units by decreasing resident one-tag licenses by 1,110 licenses and nonresident one-tag licenses by 90 licenses, and increasing resident two-tag licenses by 2,315 licenses (4,630 tags) and nonresident two-tag licenses by 184 licenses (368 tags); combine Units 53A and 53B into one Unit 53A (Perkins County); combine Units 20A and 20B into one Unit 20A (Corson County); and update the Unit 58D description to incorporate "People First Language"; amend Mountain Lion Hunting Season rules to establish season dates, open area, harvest limits, requirements and restrictions, and number of resident licenses available; change the season dates from November 1 to December 31, inclusive, to January 1 through March 31, inclusive; allow the GFP Commission by resolution to extend the mountain lion season beyond March 31, and create a mountain lion license which allows landowners to hunt year round on their own land situated outside the Black Hills Fire Protection District; amend Furbearer Seasons (Beaver Trapping and Hunting Season) rules to establish season dates, areas open for trapping, requirements and restrictions, and remove the closed to beaver trapping status on the Spring Creek drainage in Pennington County and open that area to trapping from November 1, 2008, to April 1, 2009; amend Furbearer Seasons (Mink, Weasel and Muskrat Trapping Season) to establish season dates, areas open for trapping, requirements and restrictions, and revise the rule section pertaining to nonresident restrictions on trapping mink and weasel that will clarify that nonresidents may trap mink and weasel from December 6 through January 31, inclusive; amend Trapping Prohibitions rules to require trappers statewide to check any trap or snare set entirely beneath ice and which remains entirely beneath ice and remove any animal caught in the trap prior to 12:00 o'clock midnight of the fifth full calendar day following a previous check of the trap or following initial setting of the trap. 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 Ramkota RiverCentre Convention Center, 902 W. Sioux Avenue, Pierre, South Dakota, on June 5, 2008, at 2:00 o'clock 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 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. All written and 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 Public Safety: (May 16, 2008) intends to adopt an EMERGENCY rule to permit temporary use of one-half gallon pricing at retail fuel pumps. The general authority for this rule, as cited by the department, is SDCL 37-21-5.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF HUMAN SERVICES: DIVISION OF ALCOHOL AND DRUG

ABUSE: 46:05:01:01; 46:05:02:01 to 46:05:02:09.03, inclusive; 46:05:02:11 to 46:05:02:15, inclusive; 46:05:03:01 to 46:05:03:07, inclusive; 46:05:04:01 to 46:05:04:05, inclusive; 46:05:04:07; 46:05:05:01 to 46:05:05:12, inclusive; 46:05:06:01, 46:05:06:02; 46:05:07:02 to 46:05:07:04, inclusive; 46:05:07:06; 46:05:08:01, 46:05:08:02, 46:05:08:04; 46:05:09:01 to 46:05:09:03, inclusive,

46:05:09:05 to 46:05:09:13, inclusive;
 46:05:10:01; 46:05:11:01, 46:05:11:02;
 46:05:12:04, 46:05:12:05; 46:05:13:01 to
 46:05:13:08, inclusive; 46:05:14:01 to
 46:05:14:08, inclusive; 46:05:15:01 to
 46:05:15:09, inclusive; 46:05:16:01 to
 46:05:16:10, inclusive; 46:05:17:01 to
 46:05:17:11, inclusive; 46:05:18:01 to
 46:05:18:13, inclusive; 46:05:19:01,
 46:05:19:02.01 to 46:05:19:05, inclusive,
 46:05:19:07 to 46:05:19:19, inclusive;
 46:05:20:01 to 46:05:20:10, inclusive;
 46:05:21:01 to 46:05:21:09, inclusive.

History-Notice: 34 SDR 241, March 24, 2008
 Hearing: April 8, 2008
 Filed: May 13, 2008
 Effective: June 2, 2008

**DEPARTMENT OF LABOR: SOUTH
 DAKOTA RETIREMENT SYSTEM:**

62:01:01:01; 62:01:03:04, 62:01:03:05;
 62:01:04:06, 62:01:04:11, 62:01:04:11.01;
 62:01:06:01, 62:01:06:03, 62:01:06:05,
 62:01:06:06; 62:01:07:03, 62:01:07:08;
 62:01:09:01 to 62:01:09:06, inclusive;
 62:03:05:06; 62:03:06:03, 62:03:06:03.02;
 62:04:01:02.

History-Notice: 34 SDR 233, March 17, 2008
 Hearing: April 3, 2008
 Filed: May 13, 2008
 Effective: June 2, 2008

**DEPARTMENT OF REVUENE AND
 REGULATION: DIVISION OF**

INSURANCE: 20:06:37:01 to 20:06:37:05,
 inclusive, 20:06:37:07 to 20:06:37:30, inclusive,
 20:06:37:33 to 20:06:37:36, inclusive,
 20:06:37:39 to 20:06:37:41.01, inclusive,
 20:06:37:43, 20:06:37:44, 20:06:37:46,
 Appendix A.

History-Notice: 34 SDR 233, March 17, 2008
 Hearing: April 16, 2008
 Filed: May 13, 2008
 Effective: June 2, 2008

**DEPARTMENT OF REVUENE AND
 REGULATION: DIVISION OF
 INSURANCE:** 20:06:10:18.

History-Notice: 34 SDR 257, April 7, 2008
 Hearing: April 25, 2008
 Filed: May 15, 2008
 Effective: June 4, 2008

**DEPARTMENT OF GAME, FISH AND
 PARKS:** 41:06:02:03; 41:06:08:01;

41:06:10:01; 41:06:26:02; 41:06:27:02;
 41:06:41:02, 41:06:41:03; 41:06:43:02;
 41:06:47:02; 41:06:55:01, 41:06:55:02,
 41:06:55:03; 41:06:56:01, 41:06:56:02,
 41:06:56:03; 41:06:59:02.

History-Notice: 34 SDR 234, March 17, 2008
 Hearing: April 3, 2008
 Filed: May 15, 2008
 Effective: June 4, 2008

Executive Appointments:

Rodney Freeman, Jr., Huron, was reappointed on May 8, 2008, to the **Water Management Board**, effective immediately and shall continue until June 30, 2012.

Jim Hutmacher, Oacoma, was reappointed on May 8, 2008, to the **Water Management Board**, effective immediately and shall continue until June 30, 2012.

Bernita Loucks, Rapid City, was reappointed on May 8, 2008, to the **Water Management Board**, effective immediately and shall continue until June 30, 2012.

Don Rounds, Pierre, was reappointed on May 8, 2008, to the **Board of Water and Natural Resources**, effective immediately and shall continue until July 1, 2012.

Michael V. Luken, Watertown, was appointed on May 8, 2008, to the **Board of Economic Development**, to replace Mark Amundson,

effective May 7, 2008, and shall continue until April 19, 2009.

Deanne Curran, Flandreau, was appointed on May 9, 2008, to the **Deaf and Hard of Hearing Education Task Force**, effective May 9, 2008.

Joanne DeBee, Sioux Falls, was appointed on May 9, 2008, to the **Deaf and Hard of Hearing Education Task Force**, effective May 9, 2008.

Michele Foy, Sioux Falls, was appointed on May 9, 2008, to the **Deaf and Hard of Hearing Education Task Force**, effective May 9, 2008.

Rick Melmer, Pierre, was appointed on May 9, 2008, to the **Deaf and Hard of Hearing Education Task Force**, effective May 9, 2008.

Randy Morris, Spearfish, was appointed on May 9, 2008, to the **Deaf and Hard of Hearing Education Task Force**, effective May 9, 2008.

Tad Perry, Pierre, was appointed on May 9, 2008, to the **Deaf and Hard of Hearing Education Task Force**, effective May 9, 2008.

Representative Tim Rave, Baltic, was appointed on May 9, 2008, to the **Deaf and Hard of Hearing Education Task Force**, effective May 9, 2008.

Rick Weber, Flandreau, was appointed on May 9, 2008, to the **Deaf and Hard of Hearing Education Task Force**, effective May 9, 2008.

Senator Tom Dempster, Sioux Falls, was appointed on May 12, 2008, to the **Deaf and Hard of Hearing Education Task Force**, effective May 12, 2008.

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

5-20-2008	Bureau of Administration	Amend rules to implement high efficiency building design regulations to be used on the construction and renovation of state owned buildings meeting certain requirements; 34 SDR 270.
5-20-2008	Health: Health and Medical Services	Amend Children's Special Health Services rules to increase family income guidelines, remove family cost share requirement, and revise eligibility requirements; 34 SDR 278.
5-20-2008	Labor: Labor and Management	Adopt rules to encourage Insurers and Self-Insurers to promptly address workers' compensation medical bills by paying, denying, or requesting information about them; 34 SDR 285.
5-22-2008	Bureau of Administration	Adopt rules to establish uniform fees to be charged by governmental agencies in South Dakota for the transmittal, reproduction and retrieval of records which are required or permitted to be made public upon request and

		no other rate is prescribed; 34 SDR 285.
5-29-2008	Transportation	Amend a speed zone in Clark County on US Highway 212 in the City of Clark to reduce speed limits for traffic along the area of recent commercial development west of town; 34 SDR 291.
6-4-2008	Revenue and Regulation: Gaming Commission	Amend a Deadwood Gambling Rule to adopt a variation of blackjack known as Winners Option Blackjack; 34 SDR 291.
6-5-2008	Health: Board of Pharmacy	Amend and adopt rules to establish criteria to permit use of Board of Pharmacy registered technicians to operate a retail telepharmacy when connect to a licensed South Dakota central pharmacy using advanced technology, automation and design, and will establish criteria to permit a licensed South Dakota hospital pharmacy with 24-hour services to provide limited or part-time pharmacy services to small hospitals; 34 SDR 295.
6-5-2008	Game, Fish and Parks	Amend Application for License rules that would remove the 5 license limit after the third drawing for deer, antelope and turkey seasons for which a limited number of licenses are allocated per unit, and make the leftover licenses available on a first-come, first-served basis, and correct the reference in ARSD 41:06:01:09 to the rule subsection which establishes the fee which must be submitted with an application for a preference point from subdivision 41:06:02:03(48) to subdivision 41:06:02:03(49); 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 an increase of 500 resident and 40 nonresident one-tag "any turkey" licenses (14% increase of 540 tags over the number issued in 2007) in the Black Hills Unit, an increase of 244 resident one-tag and 400 resident two-tag "any turkey" licenses (8% increase of 644 tags over the number issued in 2007) in the Prairie Units, and an increase of 8 nonresident one-tag and a decrease of 16 two-tag "any turkey" licenses in the Prairie Units; combine Units 53A and 53B into one Unit 53A; combine Units 24A (Dewey County) and 64A (Ziebach County) into one Unit 24A; eliminate the split season

	<p>for Units 44A and 44B (Lincoln County) and combine into one Unit 44A; and adjust the unit boundary for Units 49A and BH1; amend Black Hills Deer Hunting Season rules to establish season dates, shooting hours, open units, and requirements and restrictions; establish the number and types of resident and nonresident licenses available which will include offering residents 100 and nonresidents 8 fewer "any antlerless deer" licenses than were authorized in 2007, and offering residents 450 fewer and nonresidents 36 fewer "antlerless whitetail" licenses than were authorized in 2007; amend West River Deer Hunting Season rules to establish season dates, shooting hours, open units, requirements and restrictions; establish the number and types of resident and nonresident licenses/tags available, which will include adjusting license numbers in 24 units by decreasing resident one-tag licenses by 1,110 licenses and nonresident one-tag licenses by 90 licenses, and increasing resident two-tag licenses by 2,315 licenses (4,630 tags) and nonresident two-tag licenses by 184 licenses (368 tags); combine Units 53A and 53B into one Unit 53A (Perkins County); combine Units 20A and 20B into one Unit 20A (Corson County); and update the Unit 58D description to incorporate "People First Language"; amend Mountain Lion Hunting Season rules to establish season dates, open area, harvest limits, requirements and restrictions, and number of resident licenses available; change the season dates from November 1 to December 31, inclusive, to January 1 through March 31, inclusive; allow the GFP Commission by resolution to extend the mountain lion season beyond March 31, and create a mountain lion license which allows landowners to hunt year round on their own land situated outside the Black Hills Fire Protection District; amend Furbearer Seasons (Beaver Trapping and Hunting Season) rules to establish season dates, areas open for trapping, requirements and restrictions, and remove the closed to beaver trapping status on the Spring Creek drainage in Pennington County and open that area to trapping from November 1,</p>
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		2008, to April 1, 2009; amend Furbearer Seasons (Mink, Weasel and Muskrat Trapping Season) to establish season dates, areas open for trapping, requirements and restrictions, and revise the rule section pertaining to nonresident restrictions on trapping mink and weasel that will clarify that nonresidents may trap mink and weasel from December 6 through January 31, inclusive; amend Trapping Prohibitions rules to require trappers statewide to check any trap or snare set entirely beneath ice and which remains entirely beneath ice and remove any animal caught in the trap prior to 12:00 o'clock midnight of the fifth full calendar day following a previous check of the trap or following initial setting of the trap; 34 SDR 295.
9-18-2008	Environment and Natural Resources: Board of Minerals and Environment	Update the state's existing hazardous waste rules by incorporating updated federal regulations by reference. These updates reflect changes made to the federal hazardous waste rules from July 1, 2006 through June 30, 2007. Changes include establishing a standardized permit for hazardous waste storage facilities; and a variety of corrections that encompass printing omissions, typographical errors, misspellings and erroneous or missing citations and references throughout the rules; 34 SDR 278.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, June 10, 2008, in LCR 1 and 2, Third Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2008 interim: August 19, September 23, December 2, and January 12, 2009.

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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