

REGISTER

South Dakota Legislative Research Council



Volume 36

Monday, 8:00 a.m., July 20, 2009

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 Examiners in Optometry: (July 13, 2009) intends to amend Appendix A to add codes to the Procedural Code List. The general authority for the rule for this appendix, as cited by the board, is SDCL 36-7-15.

A public hearing will be held at the Tieszen Law Office, Prof. L.L.C., 306 East Capitol, Suite 300, Pierre, South Dakota, on August 13, 2009, at 12:30 p.m. Copies of the proposed appendix may be obtained without charge from and written comments sent to the South Dakota Board of Examiners in Optometry, Executive Secretary, P.O. Box 6, Langford, South Dakota 57454. Written comments must be received by August 10, 2009, 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, Prof. L.L.C., telephone (605) 224-1500 before the hearing.

Department of Health: Administration: (July 15, 2009) intends to amend a rule to define the disinterment process. The general authority for this rule, as cited by the department, is SDCL 34-25-38.

A public hearing will be held at the Hayes Building, Room 107, 600 East Capitol Avenue, Pierre, South Dakota, on August 14, 2009, at 9:00 a.m. Copies of the proposed rule may be obtained without charge from and written comments sent to the South Dakota Department of Health, 600 East Capitol Avenue, Pierre,

South Dakota 57501. Copies of the proposed rule may also be obtained at the Health Department website: <http://doh.sd.gov/News>. Material sent by mail must reach the department by August 24, 2009, 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) 773-3361 at least 48 hours before the hearing.

Bureau of Personnel: (July 16, 2009) intends to amend rules to insure that any applicant or employee with a position in the Department of Agriculture, Wildland Fire Suppression Division, whose duties include firefighting, be drug free. The general authority for these rules, as cited by the bureau, is SDCL 23-3-69 and 41-20-8.4.

A public hearing will be held in Room 412, Fourth Floor, State Capitol, Pierre South Dakota, on August 11, 2009, at 9:00 a.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Bureau of Personnel, Room 110, State Capitol, 500 E. Capitol, Pierre, South Dakota 57501-1234. Written comments must be received by August 11, 2009, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the bureau can make arrangements are asked to call (605) 773-4918 at least 48 hours before the hearing.

Department of Game, Fish and Parks: (July 17, 2009) intends to amend a Uses of Parks and Public Land rule to permit hunting only with shotguns using shot shells and bow and arrow on the Lake Andes Units Game

Production Areas in Charles Mix County; amend a Park Licenses rule to establish the procedure by which a qualifying disabled veteran may obtain a free lifetime park license; amend Waterfowl Hunting Seasons (Duck Hunting Season) rules to establish season dates, which would include establishing a split season for the High Plains Unit in order to extend the season for an additional week, and establish daily bag and possession limits for duck, coot, and merganser, which would include increasing the daily bag limit for Wood Duck from 2 to 3 depending on the current adjustment consideration at the Flyway level by the U.S. Fish and Wildlife Service; amend Elk Depredation Permit rules to establish requirements and restrictions; allow elk depredation hunts to be conducted in areas not designated as an elk unit; allow elk depredation hunts to be conducted before a regular season is opened; base hunter selection for elk depredation hunts on unsuccessful hunters for that unit from the first drawing, then unsuccessful hunters for that unit from the second drawing, then unsuccessful applicants for that unit, then unsuccessful applicants for elk units closest to the depredation hunt area; base hunter selection for pre-season depredation hunts on successful applicants for that unit, then unsuccessful applicants for that unit, then unsuccessful applicants for elk hunting units closest to the depredation hunt area; collect fees only from elk depredation hunters who did not pay for a license during the current season; unsuccessful applicants selected for a depredation hunt who elect to participate would not lose their preference points; and amend Private Shooting Preserve rules to increase the daily bag limit for pheasants on shooting preserves from 15 to 20; establish both a single-season and 3-year season private shooting preserve permit and provide for the manner in which acreage adjustments are handled for 3-year permits; and provide that all pen-reared and wild birds harvested on a shooting preserve be tagged with tags that distinguish whether the harvested bird is pen-raised or wild, increase the fee for kill tags for pen-reared birds harvested

on a shooting preserve from five to fifteen cents each, and establish a new fee for kill tags issued for wild birds harvested on a shooting preserve at fifty cents each. The general authority for these rules, as cited by the department, is SDCL 41-2-18, 41-6-21, 41-6-29.1, 41-10-16, 41-11-5, 41-17-1.1, and 41-17-13.4.

A public hearing will be held at the Wrangler Inn, 820 West Grand Crossing, Mobridge, South Dakota, on August 6, 2009, 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 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.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Curt Everson, Pierre, was appointed on July 10, 2009, to the **Council of Economic Advisors**, to replace Robert Tosterud, effective immediately and shall continue until June 30, 2012.

Kristie Fiegen, Sioux Falls, was reappointed on July 10, 2009, to the **Court Appointed Special Advocates Commission**, effective immediately and shall continue until June 30, 2012.

David F. Fleck, Sioux Falls, was appointed on July 10, 2009, to the **South Dakota Health and**

Educational Facilities Authority, to replace Steve Egger, effective immediately and shall continue until June 30, 2014.

Dan Kaiser, Sioux Falls, was appointed on July 10, 2009, to the **Statewide One-Call Notification Center Board**, to replace Paul Lowe, effective immediately and shall continue until October 31, 2009.

Dan Newell, Sioux Falls, was reappointed on July 10, 2009, to the **Council of Economic Advisors**, effective immediately and shall continue until June 30, 2012.

Joel Rosenthal, Sioux Falls, was reappointed on July 10, 2009, to the **Council of Economic Advisors**, effective immediately and shall continue until June 30, 2012.

Jim Schade, Volga, was reappointed on July 10, 2009, to the **Council of Economic Advisors**, effective immediately and shall continue until June 30, 2012.

Alecia Thompson, Ft. Thompson, was reappointed on July 10, 2009, to the **Court**

Appointed Special Advocates Commission, effective immediately and shall continue until June 30, 2012.

Steve Zellmer, Rapid City, was reappointed on July 10, 2009, to the **Council of Economic Advisors**, effective immediately and shall continue until June 30, 2012.

Executive Order:

The Governor has signed **Executive Order 2009-07** dated July 15, 2009, which declares a major disaster to exist in Meade County, South Dakota, due to a series of late winter blizzards.

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

7-21-2009	Health: Board of Funeral Service	Amend rules to increase fees for renewal and applications, clarify the educational requirements for licensure, and eliminate outdated requirements on caskets displayed in the selection room; 35 SDR 317.
7-23-2009	Transportation	Amend a speed zone in Meade County on South Dakota Highway 79 north of Sturgis to reduce the speed limits on a segment of highway north of Highway 34 during the first two weeks of August; 36 SDR 1.
8-6-2009	Game, Fish and Parks	Amend a Uses of Parks and Public Land rule to permit hunting only with shotguns using shot shells and bow and arrow on the Lake Andes Units Game Production Areas in Charles Mix County; amend a Park Licenses rule to establish the procedure by which a qualifying disabled veteran may obtain a free lifetime park license; amend Waterfowl

	<p>Hunting Seasons (Duck Hunting Season) rules to establish season dates, which would include establishing a split season for the High Plains Unit in order to extend the season for an additional week, and establish daily bag and possession limits for duck, coot, and merganser, which would include increasing the daily bag limit for Wood Duck from 2 to 3 depending on the current adjustment consideration at the Flyway level by the U.S. Fish and Wildlife Service; amend Elk Depredation Permit rules to establish requirements and restrictions; allow elk depredation hunts to be conducted in areas not designated as an elk unit; allow elk depredation hunts to be conducted before a regular season is opened; base hunter selection for elk depredation hunts on unsuccessful hunters for that unit from the first drawing, then unsuccessful hunters for that unit from the second drawing, then unsuccessful applicants for that unit, then unsuccessful applicants for elk units closest to the depredation hunt area; base hunter selection for pre-season depredation hunts on successful applicants for that unit, then unsuccessful applicants for that unit, then unsuccessful applicants for elk hunting units closest to the depredation hunt area; collect fees only from elk depredation hunters who did not pay for a license during the current season; unsuccessful applicants selected for a depredation hunt who elect to participate would not lose their preference points; and amend Private Shooting Preserve rules to increase the daily bag limit for pheasants on shooting preserves from 15 to 20; establish both a single-season and 3-year season private shooting preserve permit and provide for the manner in which acreage adjustments are handled for 3-year permits; and provide that all pen-reared and wild birds harvested on a shooting preserve be tagged with tags that distinguish whether the harvested bird is pen-raised or wild, increase the fee for kill tags for pen-reared birds harvested on a shooting preserve from five to fifteen cents each, and establish a new fee for kill tags issued for wild birds harvested on a</p>
--	---

		shooting preserve at fifty cents each; 36 SDR 7.
8-11-2009	Personnel	Amend rules to insure that any applicant or employee with a position in the Department of Agriculture, Wildland Fire Suppression Division, whose duties include firefighting, be drug free; 36 SDR 7.
8-13-2009	Health: Board of Examiners in Optometry	Amend Appendix A to add codes to the Procedural Code List; 36 SDR 7.
8-14-2009	Health: Administration	Amend a rule to define the disinterment process; 36 SDR 7.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, July 28, 2009, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor, of the State Capitol. Other DDN sites will be: Aberdeen – NSU, 1200 S. Jay Street, Room Lib117; Huron – DOT, 901 Dakota St.; Mitchell – MTI, 1800 E. Spruce, Room TC155; Rapid City – SDSM&T, 501 E. St. Joseph St., Room CB109; Sioux Falls – SFUC, 2205 Career Ave., Room 282S; and Yankton – DOT, 1306 W. 31st St. The committee chair has set the following tentative meeting schedule for the 2009 interim: September 1, October 6, November 18, and December 15.

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>.

The **South Dakota Register**, ISSN 0191-1104, is published by the South Dakota Legislative Research Council pursuant to SDCL 1-26A-1. Subscriptions to Volume 36 are \$25. Make checks payable to "State of South Dakota" and mail to the Legislative Research Council, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070. Information from the Register is available free of charge on the Internet at <http://legis.state.sd.us>. Subscribe to receive electronic notification of the availability of the **South Dakota Register** at **MyLRC** (<http://legis.state.sd.us/mylrc/index.aspx>).
