

REGISTER



South Dakota Legislative Research Council

Volume 30

Monday, 8:00 a.m., October 27, 2003

A COPY OF EACH REGISTER IS FILED IN THE OFFICE OF THE SECRETARY OF STATE

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

Department of Environment and Natural Resources: Board of Water and Natural Resources: (October 20, 2003) has filed rules to move Loomis Township from Central Plains Water Development District Rural Director Area 4 to Rural Director Area 2; to use 2000 census data rather than the 1990 census data to award priority points for population; to allow the Board of Water and Natural Resources more flexibility in the type of projects that can receive water quality grants; to use median household income data from the 2000 census rather than use non-metropolitan median household income data from the 1990 census data to determine affordability criteria and disadvantaged community eligibility; to adjust the affordability criteria to reflect more recent census data; to quantify the criteria for awarding priority points for projects developing new sources of water supply; to change the basis for awarding points from having less than a peak day demand to an average day demand; and to use 2000 census data rather than the 1990 census data to award priority points for population. The general authority for these rules, as cited by the board, is SDCL 46A-3C-6, 46A-1-60.1, 46A-1-60.2, and 46A-1-60.3.

A public hearing will be held at the Matthew Training Center, 523 E. Capitol Avenue, Pierre, South Dakota, on November 14, 2003, at 1:00 p.m. CST. Copies of the proposed rule may be obtained without charge at the DENR web page at <http://www.state.sd.us/denr/What'sNew> or by writing the Department of Environment and Natural Resources, Division of Financial

and Technical Assistance, 523 East Capitol Avenue, Pierre, South Dakota 57501. Written comments may be sent to the Board of Water and Natural Resources, Department of Environment and Natural Resources, 523 East Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received by the close of business on November 13, 2003. 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 the department at (605) 773-4216 at least forty-eight hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Administrative Rules:

**DEPARTMENT OF EDUCATION:
PROFESSIONAL TEACHERS
PRACTICES AND STANDARDS
COMMISSION:** 24:08:02:07 and 24:08:02:08.

History-Notice: 30 SDR 25, August 18, 2003
Hearing: September 19, 2003
Filed: October 20, 2003
Effective: November 9, 2003

Attorney General Appointments:

The following were appointed Special Assistant Attorney General:

Robert B. Anderson, October 17, 2003
Jeffrey L. Bratkiewicz, October 17, 2003

Executive Appointments:

Angela Boddicker, Pierre, was appointed on October 20, 2003, to the **Board of Service to the Blind and Visually Impaired**, to replace Robin Cline, effective immediately and shall continue until June 30, 2006.

Owen "Keith" Bundy, Madison, was reappointed on October 20, 2003, to the **Board of Service to the Blind and Visually Impaired**, effective immediately and shall continue until June 30, 2006.

Dawn Y. LaMee, Aberdeen, was reappointed on October 20, 2003, to the **Board of Service to the Blind and Visually Impaired**, effective immediately and shall continue until June 30, 2006.

Michael G. Stusiak, Watertown, was reappointed on October 20, 2003, to the **Board of Service to the Blind and Visually Impaired**, effective immediately and shall continue until June 30, 2006.

Brad Drake, Watertown, was appointed on October 20, 2003, to the **Corrections Commission**, to replace Tom Roberts, effective immediately and shall continue at the pleasure of the Governor.

Steve Lehner, Huron, was appointed on October 20, 2003, to the **Statewide One-Call Notification Center Board**, to replace Curt Pohl, effective immediately and shall continue until November 1, 2005.

Robert Mayer, Vermillion, was appointed on October 20, 2003, to the **South Dakota Professional Administrators Practices and Standards Commission**, to replace Brad Meeks, effective immediately and shall continue until December 31, 2006.

Betty Coon, Rapid City, was appointed on October 20, 2003, to the **Independent Living Council**, to replace Larry Tolzin, effective

immediately and shall continue until July 1, 2006.

Duane Mackey, Vermillion, was appointed on October 20, 2003, to the **Drug and Alcohol Abuse Advisory Council**, to replace William Barns, effective immediately and shall continue until July 1, 2005.

Louis Van Roekel, Pierre, was appointed on October 20, 2003, to the **South Dakota Medicaid P&T Committee**, effective immediately and shall continue until June 30, 2005.

Deanna L. Ernster, Tea, was reappointed on October 20, 2003, to the **Family Support Council**, effective immediately and shall continue until July 1, 2006.

Dawn J. Kellogg, Rapid City, was appointed on October 20, 2003, to the **Family Support Council**, effective immediately and shall continue until July 1, 2006.

Paulette D. Preszler, Aberdeen, was reappointed on October 20, 2003, to the **Family Support Council**, effective immediately and shall continue until July 1, 2006.

Patty Mechling, Rapid City, was reappointed on October 20, 2003, to the **Board of Vocational Rehabilitation**, effective immediately and shall continue until July 1, 2006.

Monte Tschetter, Mitchell, was appointed on October 20, 2003, to the **Board of Vocational Rehabilitation**, to replace Randy Silver, effective immediately and shall continue until July 1, 2006.

Arvid Liebe, Milbank, was reappointed on October 20, 2003, to the **State Board of Pharmacy**, effective immediately and shall continue until October 1, 2006.

Nora W. Hussey, Sturgis, was reappointed on October 20, 2003, to the **State Board of Pharmacy**, effective immediately and shall continue until October 1, 2006.

Paul Evenson, Renner, was reappointed on October 20, 2003, to the **Veterans Commission**, effective October 1, 1997, and shall continue until October 1, 2009.

George Nikolas, Aberdeen, was appointed on October 20, 2003, to the **South Dakota Railroad Authority**, to replace Paul Redfield, effective immediately and shall continue until January 16, 2005.

Dennis White Shield, Porcupine, was appointed on October 21, 2003, to the **Board of Service to the Blind and Visually Impaired**, to replace Wynema Dupris, effective immediately and shall continue until June 30, 2006.

Gerald Thaden, Marvin, was appointed on October 21, 2003, to the **State Conservation Commission**, to replace Dale Tesch, effective January 1, 2004, and shall continue until January 1, 2007.

Philomine Moran, Eagle Butte, was appointed on October 21, 2003, to the **Independent Living Council**, to replace Carol Robinson, effective immediately and shall continue until July 1, 2005.

Dennis Hedge, Sioux Falls, was appointed on October 21, 2003, to the **South Dakota Medicaid P&T Committee**, effective immediately and shall continue until June 30, 2005.

Richard Fossum, Canton, was appointed on October 21, 2003, to the **State Conservation Commission**, to replace Ron Hendricks, effective immediately and shall continue until January 1, 2007.

Mary I'atala, Pine Ridge, was appointed on October 21, 2003, to the **Board of Vocational Rehabilitation**, to replace Carol Robinson, effective immediately and shall continue until July 1, 2004.

Heather Christianson, Mitchell, was appointed on October 22, 2003, to the **South Dakota Medicaid P&T Committee**, effective immediately and shall continue until June 30, 2005.

Galen Goeden, Yankton, was appointed on October 22, 2003, to the **South Dakota Medicaid P&T Committee**, effective immediately and shall continue until June 30, 2005.

Katie Seymour, White River, was appointed on October 22, 2003, to the **Board of Vocational Rehabilitation**, to replace Vicki Kerkvliet-Nisch, effective immediately and shall continue until July 1, 2007.

Travis Hamilton, Okreek, was appointed on October 22, 2003, to the **Board of Vocational Rehabilitation**, to replace Larry Tolzin, effective immediately and shall continue until July 1, 2005.

Connie Kisecker, Ft. Pierre, was appointed on October 22, 2003, to the **Board of Social Services**, effective immediately and shall continue until July 1, 2007.

Tim Connor, Brookings, was appointed on October 23, 2003, to the **Family Support Council**, to replace Nina Jeffery, effective immediately and shall continue until July 1, 2004.

Madonna Goodart, Rapid City, was appointed on October 23, 2003, to the **Family Support Council**, to replace Judy Coffield, effective immediately and shall continue until July 1, 2004.

James M. Neugebauer, Dimock, was reappointed on October 23, 2003, to the **American Dairy Association of South Dakota**, effective immediately and shall continue until July 1, 2006.

Bob Sauer, Sioux Falls, was appointed on October 23, 2003, to the **American Dairy Association of South Dakota**, to replace Tim Czmowski, effective immediately and shall continue until July 1, 2005.

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 Commerce and Regulation for commercial driver licensing, the Department of Labor for Article 47:03, and the Department of Revenue.

REMINDER OF HEARINGS SCHEDULED

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| 10-28-2003 | Health | Amend rules that will update the list of reportable communicable diseases in South Dakota and update the reporting mechanisms; 30 SDR 47. |
| 10-28-2003 | Revenue and Regulation | Amend rules to change filing requirements to allow retaliatory fees to be billed to insurers on a periodic basis; repeal redundant rules on policy delivery; treat annuities and life insurance replacement form requirements in the same manner; and allow life insurance exclusions for travel to certain specifically identified countries for buyers purchasing very large life insurance policies; 30 SDR 51. |
| 11-5-2003 | Labor: Plumbing Commission | Repeal the 1996 National Standard Plumbing Code and amendments and adopt the 2003 Uniform Plumbing Code with amendments; 30 SDR 55. |
| 11-6-2003 | Game, Fish and Parks | Amend rules that will permit uncased .22 caliber firearms year around on GFP designated rifle ranges at North Point and Oahe Downstream Recreation Areas and prohibits uncased firearms and bows year around in certain areas of Bear Butte State Park; increase the entrance license fee for persons occupying commercial motor coaches; change the designation of the fee applicable at Richmond from "modern" to a "preferred" campground; require boat operators to have on board a Coast Guard-approved wearable personal flotation device for each person being towed on certain devices unless the person being towed has possession of a wearable Coast Guard-approved personal flotation device; permit a migratory bird certification |

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| | | <p>"permit" to be in the form of an "authorization code" and clarifies that if the permit is a "stamp," the stamp must be on the hunting license; change from 4 weeks of age to 6 weeks as the time when game birds propagated, possessed, or released on a private shooting preserve must be appropriately marked; complete revision of and amendments to the chapter formerly known as "Domestication of Wild Species" and changed to "Captive Game Birds"; prohibit high-grading of trout in the Black Hills Trout Management Area and prohibit high-grading of bluegill in Campbell Slough; extend the date when an ice fishing shelter must be removed from Deerfield Lake; Newell Lake (largemouth bass) impose a 12-16 inch protected size restriction and establish a daily possession limit to include no more than one 16 inches or longer; Campbell Slough (smallmouth and largemouth bass) impose an 18 inch minimum size restriction and a daily possession limit of one; impose a 15 inch size restriction for largemouth and smallmouth bass in Stockade and New Underwood Lakes; impose a 14 inch minimum size restriction for walleye, sauger, and walleye-sauger hybrid at Campbell Slough, Curlew Lake, and Newell Lake; impose a 10 fish (bluegills and sunfish [or combination thereof], crappies, and perch) daily possession limit at Twin and Mud Lakes in Spink, Grant, and Roberts counties (except the Minnesota/SD boundary waters); clarify that no more than one of the northern pike taken daily from LaCreek National Wildlife Refuge may be 36 inches or greater in length and modify the possession limit; and impose the minimum size restriction for walleye, sauger, and walleye-sauger hybrid from 16 inches to 14 inches at Waubay Lake; open the bullfrog season all year long; prohibit taking turtles that are on the state list of endangered reptiles; modifies the species contained in the list of biological specimens that may be taken for commercial purposes and lawful anglers, and limits the possession by lawful anglers of any listed species to a daily limit of 15 each and possession limit of 30 each; repeal the</p> |
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| | | <p>resident, nonresident, and nonresident family fishing licenses for Lake Oahe; reduce the daily limit of walleye, sauger, and walleye-sauger hybrid on Lake Oahe to 6 daily and 18 in possession and prohibit the daily taking of more than one which is 22 inches or greater in length (was 18 inches); establish a daily limit of 3 walleye, sauger, walleye-sauger hybrid on Lake Sharpe and on Lake Francis Case and the Missouri River downstream from Fort Randall Dam approximately 3 miles to the Nebraska border; and prohibit the taking of bait and biological specimens on the Missouri River below Gavins Point Dam; 30 SDR 55.</p> |
| <p>11-12-2003</p> | <p>Social Services: Food Stamps</p> | <p>Adopt rules that specifies that those households that receive Low Income Energy Assistance are eligible for the food stamp standard utility allowance, and establish two new types of utility allowances for food stamp households: (1) a limited utility allowance, and (2) a one-utility allowance; 30 SDR 57.</p> |
| <p>11-12-2003</p> | <p>Social Services: Office of Medical Services</p> | <p>Amend rules that reflect changes in Federal Authority from a waiver to a State Plan amendment; remove SSI disabled children and Title V children from the Case Management program; amend the eligibility requirements for a primary care provider; amend the individual's choice of PCP time measured by the date of notice; to allow changes in PCP to be conveyed verbally or in writing by the recipient, and no longer has to establish good cause; changes made to reflect disenrollment effective date request initiated by the provider will be the first day of the month following approval, and that good cause reasons must be non-discriminatory, generally applied to the provider's entire patient base; clarifies the language that a referral must be made by the PCP before the other medical provider provides service; changes exempt from managed care rehabilitation hospital services, chemical dependency treatment, and prescription drug services and states organ transplants, FQHC/RHC, and diabetic education programs are now covered services under managed care; amend the definition source for mental health services for those diagnosed as seriously emotionally disturbed</p> |

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| | | <p>and exempts prescription drug services and clarifies that case management services are not exempt services; repeals the requirement of case management for services provided at community mental health centers; amend the billing requirements for case management; repeal rules that state pharmacy claims must have a managed care referral; and require that claim requirements for ambulatory surgical center services must follow certain requirements and for organ transplant services, mental health services, diabetes education services, FQHC and RHC services must follow certain claim requirements; 30 SDR 56.</p> |
| <p>11-14-2003</p> | <p>Environment and Natural Resources: Board of Water and Natural Resources</p> | <p>Amend rule to move Loomis Township from Central Plains Water Development District Rural Director Area 4 to Rural Director Area 2; to use 2000 census data rather than the 1990 census data to award priority points for population; to allow the Board of Water and Natural Resources more flexibility in the type of projects that can receive water quality grants; to use median household income data from the 2000 census rather than use non-metropolitan median household income data from the 1990 census data to determine affordability criteria and disadvantaged community eligibility; to adjust the affordability criteria to reflect more recent census data; to quantify the criteria for awarding priority points for projects developing new sources of water supply; to change the basis for awarding points from having less than a peak day demand to an average day demand; and to use 2000 census data rather than the 1990 census data to award priority points for population; 30 SDR 63.</p> |
| <p>11-17-2003</p> | <p>Agriculture: Division of Agricultural Services</p> | <p>Adopt a rule that will require those who manufacture distiller and corn gluten feed products to provide a maximum sulfur guarantee on the label of these products; 30 SDR 55.</p> |

Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Friday, November 14, 2003, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting for the remainder of the interim: January 12, 2004.

Agencies whose rules have had a public hearing will be scheduled to meet with the Rules Review Committee and are asked to have a representative present at the meeting to give background information on their rules.

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.