

MINUTES

Rules Review Committee



Representative Jean Hunhoff, Chair
Senator Lance Russell, Vice Chair

Three hundred eighty-eighth meeting
Tuesday
May 5, 2020

Room 414
State Capitol
Pierre, South Dakota

The three hundred eighty-eighth meeting of the Rules Review Committee was called to order by Representative Jean Hunhoff, Chair, at 10:04 a.m. (CT) on May 5, 2020, via electronic conference and in Room 414 at the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members present: Representatives Ryan Cwach, Jon Hansen, and Jean Hunhoff, Chair; and Senators Craig Kennedy, Lance Russell, Vice Chair, and Margaret Sutton. Staff members present were Wenzel Cummings, Code Counsel, Kelly Thompson, Senior Legislative Secretary, and Hilary Carruthers, IT Support Specialist.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). For continuity, these minutes are not necessarily in chronological order.

Approval of Minutes

Representative Hansen moved, seconded by Senator Kennedy, that the April 7, 2020, meeting minutes be approved. Motion prevailed on a roll call vote with 6 ayes. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, Russell, and Sutton.

Rules Reviewed

South Dakota Electrical Commission (Department of Labor and Regulation): Amend rules to:

- Adopt the 2020 National Electrical Code;
- Update the reference to the 2018 International Building Code;
- Define terms;
- Document the ability to utilize an owner exemption permit;
- Document the ability to waive certain requirements;
- Document the available options an inspector may utilize at the final stage of inspection;
- Increase the fees for certain inspections; and
- Establish an allotted amount of inspections per permit type.

Mr. JJ Linn, South Dakota Electrical Commission, and Mr. Graham Oey, Department of Labor and Regulation, reviewed the proposed rules. Mr. Oey told members that proposed new rule ARSD 20:44:15:07 was developed prior to the passage of House Bill 1296 by the 2020 Legislature, and the department is recommending it be sent back to the South Dakota Electrical Commission for further discussion and changes.

Public Testimony

Ms. Madeleine Bugel, National Electrical Manufacturers Association, expressed the support of the organization for the proposed rule to adopt the 2020 version of the National Electrical Code (NEC).

Mr. Tim Dougherty, South Dakota Home Builders Association, stated the group is opposed to the rule to adopt the latest version of the NEC, citing six exceptions and saying some of the provisions would result in a substantial cost increase for builders and customers. Mr. Dougherty also noted that the South Dakota Housing Development Authority was unable to testify at the public hearing due to technical issues, and their comments should be given consideration. He asked that the proposed rule be sent back to the Electrical Commission for further review.

Senator Kennedy asked that it be clarified the rule being discussed is ARSD 20:44:14:01(12) and whether the Electrical Commission was in agreement that the rule should be reverted. Mr. Dougherty confirmed that this was the correct rule number. Mr. Oey replied the commission had no problem with reverting the rule for more discussion.

Senator Kennedy expressed concern that proposed changes to permit periods would hamper owners of agricultural property from making wiring improvements to both their residence and outbuildings. Mr. Oey clarified the criteria only apply to the person's residence.

Representative Hunhoff said continuing education requirements could only be waived through statute, and the commission did not have the authority to do so through administrative rule. Mr. Oey acknowledged the proposed rule was not worded correctly which is why it needed to go back to the commission.

Senator Kennedy moved, seconded by Representative Hunhoff, that the review of the rules proposed by the South Dakota Electrical Commission (Department of Labor and Regulation) is complete, and proposed rules 20:44:14:01(12) and 20:44:15:07 be reverted to a prior step according to SDCL 1-26-4.7. Motion prevailed on a roll call vote with 6 ayes. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, Russell, and Sutton.

Senator Kennedy moved, seconded by Representative Hunhoff, that the remaining rules be approved as presented. Motion prevailed on a roll call vote with 5 ayes and 1 nay. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, and Sutton. Voting nay: Russell.

Department of Game, Fish and Parks: Amend rules to:

- Modify the total "any elk" and "antlerless elk" in the Black Hills hunting season;
- Modify the unit structure within the Black Hills elk hunting season;
- Modify the total number of "any elk" licenses for the Custer State Park elk hunting season;
- Modify the total number of "any elk" and "antlerless elk" licenses available for the archery elk hunting season;
- Modify the number of "any elk" and "antlerless elk" licenses issued and change some season dates during the prairie elk hunting season;
- Add a new unit for those portions of South Dakota west of the Missouri River not associated with

another prairie elk unit;

- Modify prairie elk Units 9, 15A, and 27A; and
- Eliminate Unit 30A, instead including it in the West River prairie unit.

Mr. Tom Kirschenmann, Wildlife Division, Department of Game, Fish and Parks, reviewed the proposed rules.

Representative Hunhoff asked about the resulting impacts of changing hunting units. Mr. Kirschenmann explained changes can include opening new areas, replacing existing units, adjusting boundaries if the range of the animals expands, and addressing elk deprivation issues with landowners.

Responding to Representative Hunhoff on how tribal lands might be affected, Mr. Kirschenmann stated the department works closely with tribal fish and wildlife agencies with respect to elk management, and with landowners on elk deprivation and harvest issues. In terms of changes to the number of licenses available for issuance, the department shares their management approach and projected licenses strategy with the tribes which then determine whether to align with the state policy or stay at their own levels.

Senator Sutton inquired how the changes to elk harvest numbers are determined. Mr. Kirschenmann replied the department conducts locational and elk aerial surveys to count the number of elk, applying the data to a model to estimate the overall number of elk. The resulting information is compared to other surveys, including survival data for cows and calves, and estimates are made as to overall elk population. Input is also gathered from landowners and sportsmen.

Representative Hunhoff moved, seconded by Representative Hansen, that the review of the rules proposed by the Department of Game, Fish and Parks is complete. Motion prevailed on a roll call vote with 6 ayes. Voting aye: Cwach, Hansen, Hunhoff, Kennedy, Russell, and Sutton.

Closing Comments

Representative Hunhoff advised that the next meeting, scheduled for June 9, 2020, will likely be conducted by electronic conference. At this time, nine packets of proposed rules are eligible to be heard at that meeting.

Adjournment

Senator Kennedy moved, seconded by Representative Hansen, that the meeting be adjourned. Motion prevailed on a unanimous voice vote.

Chair Hunhoff adjourned the meeting at 11:00 a.m.