

REGISTER

South Dakota Legislative Research Council



Volume 32

Monday, 8:00 a.m., October 24, 2005

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

Secretary of State: Board of Elections:

(October 18, 2005) intends to amend rules to change the number of instructions to voters posters placed at each polling place; remove opt-tech ballot instructions from the posters, from the ballot instructions, and from instructions on how to count imperfectly marked optical scan ballots; provide instructions for new voting machines; add new voting machines and name of new federal agency that certifies voting equipment to the distribution requirements; update absentee ballot application and add the authorization to use a computer absentee ballot log. The general authority for these rules, as cited by the office, is SDCL 12-1-9, 12-17B-17, and 12-19-2.

A public hearing will be held in the Commission Meeting Room at the Minnehaha County Administration Building, 415 North Dakota Avenue, Sioux Falls, South Dakota, on November 16, 2005, at 1:00 p.m. Copies of the proposed rules may be obtained without charge from and written comments sent to the Secretary of State, Election Department, 500 East Capitol, Pierre, South Dakota 57501 or the proposed rules may be obtained at www.sdsos.gov/boe.htm. Written comments must be received on or before November 14, 2005, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the office can make arrangements are asked to call (605) 773-3537 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATES OFFICE:

DEPARTMENT OF REVENUE AND REGULATION: 64:04:01:30.

History-Notice: 32 SDR 27, August 8, 2005
Hearing: August 26, 2005
Filed: October 18, 2005
Effective: November 7, 2005

DEPARTMENT OF GAME, FISH AND PARKS: 41:05:02:68 and 41:06:20:02.

History-Notice: 32 SDR 45, Sept. 6, 2005
Hearing: October 6-7, 2005
Filed: October 20, 2005
Effective: November 9, 2005

DEPARTMENT OF HEALTH: 44:66:01 to 44:66:03, inclusive.

History-Notice: 32 SDR 37, August 22, 2005
Hearing: September 19, 2005
Filed: October 18, 2005
Effective: November 7, 2005

DEPARTMENT OF HEALTH: 44:22:01:01 to 44:22:01:03, inclusive; 44:22:02:01, 44:22:02:02, 44:22:02:05 to 44:22:02:08, inclusive, 44:22:02:09.01, 44:22:02:10; 44:22:03:01 to 44:22:03:03, inclusive; 44:22:04:01 to 44:22:04:03, inclusive; and 44:22:05:01.

History-Notice: 32 SDR 47, Sept. 12, 2005
Hearing: October 3, 2005
Filed: October 18, 2005
Effective: November 7, 2005

Executive Appointments:

Ann Larsen, Pierre, was appointed on October 12, 2005, to the **Mental Health Planning and Coordination Advisory Council**, to replace Michelle Powers, effective immediately.

Amy Iversen-Pollreisz, Pierre, was appointed on October 12, 2005, to the **Mental Health Planning and Coordination Advisory Council**, to replace Kim Malsam-Rysdon, effective immediately.

Ellen White, Sturgis, was reappointed on October 12, 2005, to the **Mental Health Planning and Coordination Advisory Council**, effective immediately and shall continue until June 30, 2007.

Cindy Klein, Sturgis, was reappointed on October 12, 2005, to the **Mental Health Planning and Coordination Advisory Council**, effective immediately and shall continue until June 30, 2008.

Doris Schumacher, Brookings, was reappointed on October 12, 2005, to the **Mental Health Planning and Coordination Advisory Council**, effective immediately and shall continue until June 30, 2008.

Brandon Mills, Aberdeen, was appointed on October 12, 2005, to the **Mental Health Planning and Coordination Advisory Council**, to replace Emily Haney-Caron, effective immediately and shall continue until June 30, 2007.

Barbara Lefdal, Sioux Falls, was appointed on October 12, 2005, to the **Mental Health Planning and Coordination Advisory Council**, to replace Martha Van Laecken, effective immediately and shall continue until June 30, 2007.

Dawn Bultena, Hermosa, was appointed on October 12, 2005, to the **Mental Health Planning and Coordination Advisory Council**, to replace Marley Prunty-Lara, effective immediately and shall continue until June 30, 2007.

William Schroll, Watertown, was appointed on October 12, 2005, to the **Mental Health Planning and Coordination Advisory Council**, to replace Mark Arneson, effective immediately and shall continue until June 30, 2008.

Duane Majeres, Huron, was appointed on October 12, 2005, to the **Mental Health Planning and Coordination Advisory Council**, to replace Terry Dosch, effective immediately and shall continue until June 30, 2008.

Phyllis Arends, Canistota, was appointed on October 14, 2005, to the **Mental Health Planning and Coordination Advisory Council**, to replace Lois Bates, effective immediately and shall continue until June 30, 2008.

Everett Hoyt, Rapid City, was appointed on October 17, 2005, to the **Water Management Board**, to replace Marian Gunderson, effective immediately and shall continue until June 30, 2009.

Ken Karels, Milbank, was appointed on October 17, 2005, to the **Education Enhancement Funding Corporation**, to replace Mark Griffin, effective immediately.

Guy Bender, Brookings, was reappointed on October 17, 2005, to the **Workers' Compensation Advisory Council**, effective immediately and shall continue until June 30, 2008.

Paul Aylward, Huron, was reappointed on October 17, 2005, to the **Workers' Compensation Advisory Council**, effective immediately and shall continue until June 30, 2008.

Richard B. Ostrander, Sioux Falls, was reappointed on October 17, 2005, to the **South Dakota Board of Counselor Examiners**, effective immediately and shall continue until June 30, 2006.

Executive Order:

The Governor has signed **Executive Order 2005-12** dated October 13, 2005, to assist the livestock industry to respond to inadequate pasture grass and natural feed supplies due to drought conditions. This Executive Order waives certain fees and movement restrictions for the transportation of baled livestock feed within the state. The annual fee for a baled feed permit and the fee for the single trip movement of feed is waived. Permission is granted to move baled livestock feed on the state trunk highway system and the interstate system 1/2 hour before sunrise and 1/2 hour after sunset. Certain width and height restrictions are imposed along with a flashing warning light

requirement. The Executive Order expires on April 30, 2006, and the waiver provisions are not effective during certain prescribed holiday periods that occur during the term of the Executive Order. Interested persons may review the Executive Order during normal business hours by contacting the Secretary of State's office.

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

11-1-2005	Labor: Public Utilities Commission	Amend rules to set forth the requirements for filing an application for a permit to construct wind energy facilities and amend some requirements applying to the siting of energy conversion and transmission facilities; 32 SDR 55.
11-1-2005	Agriculture	Amend a rule to change the dates of the South Dakota State Fair; 32 SDR 57.
11-3-2005	Game, Fish and Parks	Amend the continuous length of time (15 days) a person or group may camp at a first come-first serve site at Lewis & Clark Recreation Area w/o permission; repeal portions of park entrance license exemptions at certain areas of the Lewis & Clark Recreation Area; establish the daily camping permit fee of \$7.62 at Rocky Point Recreation Area by designating it as a "modern campground fee" area; modify fees for canceling a campsite through the reservation center from \$10 to 1 night's camping fee, establish a \$15 fee for canceling a reservation for a camping cabin or rent-a-camper through the call center or upon arrival at the park, and modify the cancellation fee for French Creek Horse Camp from \$10 to 1 night's camping fee if cancellation is received 30 days or more in advance; modify the definition of "inland waters" to correct an error and to exclude the "SD-Iowa", "SD-Minnesota" and "SD-Nebraska" boundary

		<p>waters; prohibit release of non-native mollusks into waters of the state without authorization; prohibit statewide the taking/keeping daily of more than 1 walleye, sauger, or walleye-sauger (or combination) 20 inches or longer except in certain bodies of water (including Belle Fourche Reservoir; Diamond, Twin, and Beaver Lakes in Minnehaha County, and Reetz Lake; prohibit statewide the taking/keeping of any muskellunge less than 40 inches long; prohibit taking/keeping of largemouth bass from Sheridan Lake less than 15 inches long; repeal the catch and release requirement at Lake Haven Crossing Pond; permit seines/dip nets in taking smelt in the Missouri River (and impoundments) – 5 gallon daily limit; require catch and release of trout caught in Rapid Creek within the boundaries of Meadowbrook Gold Course; repeal the limits and size restrictions for northern pike specific to LaCreek National Wildlife Refuge; modify the walleye, sauger, and walleye-sauger (or combination) limits in Lake Oahe to 4 daily and 12 in possession and remove the 15 inch minimum size restriction; modify the walleye, sauger, and walleye-sauger (or combination) limits in Lake Sharpe, Lake Francis Case, and the Missouri River from Ft. Randall Dam to the SD/Nebraska state line to 4 daily and modify the maximum size restriction to no more than 1 walleye 20 inches or longer taken daily; establish the daily limit of 10 for bluegill, sunfish, crappie, and perch in Firesteel Creek from Lake Mitchell to the Loomis oil road; modify dates spearing of rough fish is permitted on certain inland waters 24 hours a day from June 1 through August 31 to May 1 through August 31; permit spearing rough fish in the SD/Nebraska boundary waters 24 hours a day from April 1 through August 31; permit spearing game fish from sunrise to sunset at Lakes Whitewood, Preston, Spirit, Albert, John, Mary, and Norden from December 1 through the end of February (unless the last day of February falls on a Saturday – the season extends through March 1); modify the opening date for spearing game fish from July 1 of each year to</p>
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		June 1 at: Lewis & Clark Lake from Gavins Point dam upstream to the Nebraska-South Dakota state line, Lake Francis Case from Fort Randall Dam upstream to the I-90 bridge, Lake Sharpe from the big Bend Dam upstream to US Highway 14 bridge at Pierre, and Lake Oahe form Oahe Dam upstream to the US Highway 212 bridge; prohibit taking bait from the Clubhouse/Fourmile Game Production Area from May 1 through July 31; and update reference to published material containing health inspection procedures from the "4 th edition, 1994" to the "(2004 Edition)"; 32 SDR 63.
11-16-2005	Attorney General: Law Enforcement Officers Standards and Training Commission	Amend a rule to clarify who is eligible for reciprocity as a law enforcement officer; 32 SDR 63.
11-16-2005	Secretary of State: Board of Elections	Amend rules to change the number of instructions to voters posters placed at each polling place; remove op-tech ballot instructions from the posters, from the ballot instructions, and from instructions on how to count imperfectly marked optical scan ballots; provide instructions for new voting machines; add new voting machines and name of new federal agency that certifies voting equipment to the distribution requirements; update absentee ballot application and add the authorization to use a computer absentee ballot log; 32 SDR 69.
11-18-2005	Revenue and Regulation: Appraisers	Amend rules to add definition for distance education; capitalize Appraisal Subcommittee; specify that completion of the Appraisal Foundation's 7-hour National Uniform Standards of Professional Appraisal Practice Update Course is required for continuing education; require appraisers to comply with administrative rule regarding competency; allow state-registered appraisers to have more than one supervisor; limit supervisors to only three trainees; require supervisors to be in good standing and not subject to disciplinary action by the department for the past two years; require state-registered appraisers to report name of supervisors; describe supervisors' responsibilities; national examination only valid for 24 months; no alternative to successful completion of the

		<p>national examination; no longer extension given for sitting for the national examination; delete unnecessary upgrade language for state-registered appraiser; reduce experience requirement from 24 months to 12 months for state-licensed classification; delete no time limit for obtaining experience; adopt acceptable experience effective January 1, 2008; require separate appraisal assignment logs for each supervisor; describe experience that may be claimed; set time limit for obtaining experience; describe requirements for experience verification; adopt education requirements effective January 1, 2008, for the registered, licensed and certified classifications; repeal credit allowed for challenge examination; prohibit substitution of education by experience; correct date in reference to the applicable edition of the uniform standards; change precertification to qualifying education; clarify education deferral timeframe; add additional description for acceptable continuing education courses; revise the continuing education course topics; allow field trips for continuing education hours; clarify requirements for qualifying education credit; allow continuing education credit for activities other than as a student; revise sources of education; remove individual types of courses and replace with general term for all courses that are acceptable without state review; establish requirements for acceptable distance education courses; and remove individual types of courses and replace with general term for all courses for approval; 32 SDR 57.</p>
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Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Tuesday, December 6, 2005, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2005 interim: January 9, 2006.

Note: An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the Legislative Web site.

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 32 are \$20. 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.htm>).