

REGISTER



South Dakota Legislative Research Council

Volume 40

Monday, 8:00 a.m., June 23, 2014

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

Department of Game, Fish and Parks:

(June 17, 2014) intends to amend a Licensing Agents rule to clarify that the department may appoint licensing agents to sell park entrance licenses; amend Uses of Parks and Public Lands rules to add a general prohibition on use of crossbows (along with firearms and bows) in state parks, state recreation areas, state nature areas, and state lakeside use areas, and also specify exceptions to the restrictions on use of crossbows in these areas, and allow use of crossbows on lands owned by the Otter Tail Company and leased by the department as a game production area in Grant County and the Lake Andes Unit's game production areas in Charles Mix County; amend a License Forms and Fees rule to revise the current rule pertaining to replacement of a lost or destroyed license, permit or tag to authorize the department to replace a license, permit or tag in situations where through a licensee's oversight the license, permit or tag is not in the licensee's possession, or a licensee is requesting a replacement for a license, permit or tag that has been issued but not received (e.g., in the mail), require a licensee to return the original license, permit or tag issued to the licensee to the department within ten days, establish the fee for replacing all license types at \$20, and require the department to charge the license agent's fee established in SDCL 41-6-66.1; adopt a Possession, Processing and Transportation of Game rule to establish a process pursuant to which a wildlife processing facility may deem game (other than waterfowl) left at the facility as "abandoned" and allow the wildlife

processing facility to turn possession of the abandoned game to a non-profit or charitable organization that distributes food or other services to the needy; amend Fall Wild Turkey Hunting Season rules to adjust the number of licenses/tags available in the East River Prairie Units, Unit BH1, NE Unit and in Brookings, Deuel, Lincoln, Minnehaha and Moody counties, change the season dates from October 1 – January 31 to November 1 – January 31, modify Unit BH1 to include those portions of Custer, Fall River, Lawrence, Meade, and Pennington counties within a line beginning at the junction of U.S. Hwy. 85 and Interstate 90 at exit 17, south on U.S. Hwy. 85 to U.S. Hwy. 385, south on U.S. Hwy. 385 to S.D. Hwy 89, south on S.D. Hwy. 89 to Pilger Mountain Road, west on Pilger Mountain Road to Dewey Road, west on Dewey Road to the WY/SD line, south on the WY/SD line to U.S. Hwy. 18, east on U.S. Hwy. 18 to the Cheyenne River, east along the Cheyenne River to S.D. Hwy. 79, north on S.D. Hwy. 79 to Interstate 90, north and west on Interstate 90 to exit 17, the point of beginning, change the unlimited West River Prairie licenses from a two-tag license to a single tag license, and close Bennett, Corson, Custer, Fall River, Haakon, Jackson, Lawrence (south of Interstate 90), Meade, Pennington, Shannon and Ziebach counties to fall turkey hunting in the West River Prairie Unit; amend an Antelope Hunting Season rule to adjust the number of licenses/tags available and close Unit 60A to both firearms and archery; and amend a Waterfowl Hunting Seasons rule by modifying the boundaries of Units 1 and 2 established in ARSD 41:06:16:07 by adding all of Custer, Fall River and Pennington counties into Unit 2, and adding that portion of Perkins County west of SD Highway

75 and south of SD Highway 20 into Unit 1 (area open to Early Fall Canada Goose Hunting Season). The general authority for these rules, as cited by the department, is SDCL §§ 41-2-18, 41-6-21, 41-11-5, and 41-17-1.1.

A public hearing will be held at the Holiday Inn Express, 110 East Stanley Road, Ft. Pierre, South Dakota, on July 8, 2014, 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, 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 email to Wildinfo@state.sd.us. All written and email comments must include the commenter's name, home town/city and state. 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) 773-3718 or (605) 223-7684 (Telecommunication Device for the Deaf) before the hearing.

Secretary of State: Board of Finance: (June 17, 2014) intends to amend a rule to increase the allowable in-state lodging reimbursement amount for State employees traveling on official in-state travel effective January 1, 2015. The general authority for this rule, as cited by the board, is SDCL § 3-9-2.

A public hearing will be held in the Governor's Large Conference Room, 2nd floor, State Capitol, Pierre, South Dakota, on July 15, 2014, at 2:00 p.m. Copies of the proposed rule may be obtained without charge from and written comments sent to the Board of Finance, c/o Secretary of State, Room 204, State Capitol, 500 E. Capitol, Pierre, South Dakota 57501. Material sent by mail must be received by July 14, 2014, 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 (605) 773-3537 at least 48 hours before the hearing.

Department of Education: Board of Education: (June 18, 2014) intends to amend rules to update terminology, criteria, and other requirements regarding the definition and evaluation of autism spectrum disorder, reference the current edition of the Diagnostic and Statistical Manual of Mental Disorders, repeal sections already covered by other comprehensive evaluation rules, and make the definition of "students with disabilities" in the accountability rules consistent with the definition in the special education rules. The general authority for these rules, as cited by the board, is SDCL §§ 13-1-12.1, 13-3-69, 13-37-1, 13-37-1.1, 13-37-28, 13-37-46, 13-37-47, and 13-37-52.

A public hearing will be held at the MacKay Building, First Floor, Library Commons, 800 Governors Drive, Pierre, South Dakota, on July 21, 2014, at 9:00 a.m. CDT. Copies of the proposed rules may be obtained without charge from the Department of Education, Attn: Ferne Haddock, 800 Governors Drive, Pierre, South Dakota 57501 or at <http://www.doe.sd.gov/board/index.aspx>. Written comments may be sent to the board at the address above or at this website: <https://rules.sd.gov/default.aspx> and must be received by July 18, 2014, 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) 773-3553 at least 48 hours before the hearing.

Department of Agriculture: Animal Industry Board: (June 18, 2014) intends to amend a rule to relax quarantine requirements for baby calves moving into South Dakota. The general authority for this rule, as cited by the board, is SDCL § 40-3-14.

A public hearing will be held at the Animal Industry Board Office, 411 South Fort Street, Pierre, South Dakota, on July 15, 2014, at 1:30 p.m. Copies of the proposed rule may be obtained without charge from and written comments sent to the South Dakota Animal Industry Board Office, 411 South Fort Street, Pierre, South Dakota 57501. Material sent by mail must reach the Board Office by July 14, 2014, 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 (605) 773-3321 at least 48 hours prior to the hearing.

NOTICE:

The **Department of Social Services** intends to make the following changes to the South Dakota Medicaid State Plan concerning methodology used to determine eligibility for Targeted Low-Income Children in the CHIP program effective January 1, 2014. The proposed State Plan Amendment (SPA) designates the income methodology South Dakota will use to make eligibility determinations in the CHIP program. The proposed amendment revises page CS3 of Section CS of the South Dakota Medicaid State Plan. The Department estimates no federal fiscal impact associated with this SPA in Federal Fiscal Year 2014 and Federal Fiscal Year 2015. Written requests for a copy of these changes, and corresponding comments, may be sent to Kirby Stone, State Medicaid Director, Division of Medical Services, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501-2291.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointment:

Mark Willadsen, District 11, Sioux Falls, was appointed on June 16, 2014, to the **South Dakota House of Representatives**, to fill the

unexpired term of Representative Christine Erickson who resigned. This appointment is effective immediately.

Executive Order:

The Governor has signed **Executive Order 2014-05**, dated June 17, 2014. This order declares an emergency due to the severe flooding and damage to infrastructure in the affected areas stricken by the heavy rainfall starting on June 13, 2014. Under the authority of the Emergency Management law, the Governor has made the resources of state government available to support local government efforts in the protection of lives and property in the affected counties. The resources may be utilized under the coordination of the Department of Public Safety, Office of Emergency Management.

State Bar Appointments:

Margaret V. Gillespie, Alcester, was reappointed on June 4, 2014, to the **South Dakota Code Commission**, effective July 1, 2014, and shall continue until June 30, 2018.

Thomas E. Lee, Pierre, was reappointed on June 4, 2014, to the **South Dakota Code Commission**, effective July 1, 2014, and shall continue until June 30, 2018.

Note: A copy of the rules may be obtained directly from the above agencies or at <https://rules.sd.gov>. 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

| | | |
|----------|----------------------|--|
| 7-8-2014 | Game, Fish and Parks | <p>Amend a Licensing Agents rule to clarify that the department may appoint licensing agents to sell park entrance licenses; amend Uses of Parks and Public Lands rules to add a general prohibition on use of crossbows (along with firearms and bows) in state parks, state recreation areas, state nature areas, and state lakeside use areas, and also specify exceptions to the restrictions on use of crossbows in these areas, and allow use of crossbows on lands owned by the Otter Tail Company and leased by the department as a game production area in Grant County and the Lake Andes Unit's game production areas in Charles Mix County; amend a License Forms and Fees rule to revise the current rule pertaining to replacement of a lost or destroyed license, permit or tag to authorize the department to replace a license, permit or tag in situations where through a licensee's oversight the license, permit or tag is not in the licensee's possession, or a licensee is requesting a replacement for a license, permit or tag that has been issued but not received (e.g., in the mail), require a licensee to return the original license, permit or tag issued to the licensee to the department within ten days, establish the fee for replacing all license types at \$20, and require the department to charge the license agent's fee established in SDCL 41-6-66.1; adopt a Possession, Processing and Transportation of Game rule to establish a process pursuant to which a wildlife processing facility may deem game (other than waterfowl) left at the facility as "abandoned" and allow the wildlife processing facility to turn possession of the abandoned game to a non-profit or charitable organization that distributes food or other services to the needy; amend Fall Wild Turkey Hunting Season rules to adjust the number of licenses/tags available in the East River Prairie Units, Unit BH1, NE Unit and in Brookings, Deuel, Lincoln, Minnehaha and Moody counties, change the season dates from October 1 – January 31 to November 1 – January 31, modify Unit BH1 to include those portions of Custer, Fall River,</p> |
|----------|----------------------|--|

| | | |
|-----------|--------------------------------------|--|
| | | <p>Lawrence, Meade, and Pennington counties within a line beginning at the junction of U.S. Hwy. 85 and Interstate 90 at exit 17, south on U.S. Hwy. 85 to U.S. Hwy. 385, south on U.S. Hwy. 385 to S.D. Hwy 89, south on S.D. Hwy. 89 to Pilger Mountain Road, west on Pilger Mountain Road to Dewey Road, west on Dewey Road to the WY/SD line, south on the WY/SD line to U.S. Hwy. 18, east on U.S. Hwy. 18 to the Cheyenne River, east along the Cheyenne River to S.D. Hwy. 79, north on S.D. Hwy. 79 to Interstate 90, north and west on Interstate 90 to exit 17, the point of beginning, change the unlimited West River Prairie licenses from a two-tag license to a single tag license, and close Bennett, Corson, Custer, Fall River, Haakon, Jackson, Lawrence (south of Interstate 90), Meade, Pennington, Shannon and Ziebach counties to fall turkey hunting in the West River Prairie Unit; amend an Antelope Hunting Season rule to adjust the number of licenses/tags available and close Unit 60A to both firearms and archery; and amend a Waterfowl Hunting Seasons rule by modifying the boundaries of Units 1 and 2 established in ARSD 41:06:16:07 by adding all of Custer, Fall River and Pennington counties into Unit 2, and adding that portion of Perkins County west of SD Highway 75 and south of SD Highway 20 into Unit 1 (area open to Early Fall Canada Goose Hunting Season); 40 SDR 231.</p> |
| 7-15-2014 | Secretary of State: Board of Finance | Amend a rule to increase the allowable in-state lodging reimbursement amount for State employees traveling on official in-state travel effective January 1, 2015; 40 SDR 232. |
| 7-15-2014 | Agriculture: Animal Industry Board | Amend a rule to relax quarantine requirements for baby calves moving into South Dakota; 40 SDR 232. |
| 7-21-2014 | Education: Board of Education | Amend rules to update terminology, criteria, and other requirements regarding the definition and evaluation of autism spectrum disorder, reference the current edition of the Diagnostic and Statistical Manual of Mental Disorders, repeal sections already covered by other comprehensive evaluation rules, and make the definition of "students with disabilities" in the accountability rules consistent with the |

| | | |
|--|--|---|
| | | definition in the special education rules; 40 SDR 232. |
|--|--|---|

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held on Tuesday, July 8, 2014, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor of the State Capitol. Other DDN sites will be: Huron – DHS, 2361 Dakota Ave. S; Mitchell – Mitchel Technical Institute, 1800 E. Spruce, Room TC 155; Rapid City – SD School of Mines & Technology, 501 E. St. Joseph St., Room CB 109; Sioux Falls – University Center, 4801 N. Career Ave., Room FADM 145; and Yankton – DOT, 1306 W. 31st St. The committee chair has set the following tentative meeting schedule for the 2014 interim: August 12, September 16, November 12, and December 16.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the LRC website at <http://legis.sd.gov/Rules/RulesManual.aspx>.