

REGISTER



South Dakota Legislative Research Council

Volume 41

Tuesday, 8:00 a.m., October 14, 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:

(October 8, 2014) intends to amend rules that would modify the "diver-down flag requirements" by changing flag size requirements and restricting diver-down flags from being placed in areas that would restrict watercraft navigation; adjust the nonrefundable application fee for elk, mountain goat, and bighorn sheep from \$5 to \$10; prohibit baiting from March 15 through May 31, inclusive, and create an exception for research activities conducted by the Department; offer residents 85 less one-tag "male turkey" licenses and 340 less two-tag "male turkey" licenses for the Prairie Units; offer nonresidents 10 more one-tag "male turkey" licenses and 28 less two-tag "male turkey" licenses for the Prairie Units; correct unit boundary descriptions for BST-BH1 (Black Hills) and PST-53A (Perkins County); remove the archery restriction west of Interstate 29 in Brookings County; remove the split seasons in Clay and Union counties; add Lincoln County to the restricted area where a person may use only a shotgun using shot shells, muzzleloading shotgun, or bow and arrow; reduce the number of archery turkey access permits valid for Good Earth State Park from 10 to 5, and repeal Unit PST-ZZ1; modify the definition of "Inland waters"; add a definition for "snag hook" and modify the definition of "snagging" accordingly; allow the use of artificial lights for fishing, and allow for the liberalized take of silver carp and bighead carp that jump into a boat or that can be netted using a dip net; change the channel catfish daily and possession limits on Nebraska border waters; correct the

county references for Hanson Lake and Curlew Lake; clarify the manner in which paddlefish taken below Gavin's Point Dam are to be measured for purposes of the established length restriction; modify the rules pertaining to areas open to the spearing of game fish; prohibit the harvest of mussels for noncommercial purposes; require listing all wild animal (including amphibians, reptiles, and invertebrates, and parts thereof) specimen collection requests on applications for scientific collector's permits; add all wild animals (including amphibians, reptiles, and invertebrates, and parts thereof) to the list of specimens for which limits on the number of specimens and special conditions and provisions can be established.

A public hearing will be held at the Ramada, 1301 West Russell Street, Sioux Falls, South Dakota, on November 6, 2014, at 2:00 p.m. (CST). 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. Copies of the proposed rules are also available at: <http://rules.sd.gov/>. 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 <http://rules.sd.gov/>. 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.

**FILINGS IN THE SECRETARY OF
STATE'S OFFICE:****Executive Appointments:**

Nick A. Kotzea, Sioux Falls, was appointed on September 17, 2014, to the **South Dakota Risk Pool Advisory Board**, to replace Jesse Smith, effective immediately and shall continue until June 30 2017.

Helen Paar, Sioux Falls, was appointed on October 2, 2014, to the **Veterans Commission**, to replace Wade Hubbard, effective October 15, 2014, and shall continue until October 1, 2020.

Jeffrey D. Burket, Spearfish, was appointed on October 2, 2014, to the **South Dakota State Railroad Board**, to replace Dan W. Baker, effective October 31, 2014, and shall continue until October 30, 2017.

Diane Baumiller, Parkston, was appointed on October 2, 2014, to the **Family Support Council**, effective immediately and shall continue until June 30, 2017.

Eugene Solseth, Rapid City, was reappointed on October 2, 2014, to the **Statewide One-Call Notification Center Board**, effective November 1, 2014, and shall continue until October 31, 2017.

Bleau J. LaFave, Tea, was reappointed on October 2, 2014, to the **Statewide One-Call Notification Center Board**, effective November 1, 2014, and shall continue until October 31, 2017.

Erin Hays, Sioux Falls, was reappointed on October 2, 2014, to the **Statewide One-Call Notification Center Board**, effective November 1, 2014, and shall continue until October 31, 2017.

Beverly R. Rosenboom, Sturgis, was reappointed on October 2, 2014, to the **South Dakota Professional Administrators**

Practices and Standards Commission, effective January 1, 2015, and shall continue until December 31, 2017.

Darrell D. Deheer, Sioux Falls, was reappointed on October 3, 2014, to the **Board of Barber Examiners**, effective October 31, 2014, and shall continue until October 30, 2017.

Thomas T. Keck, Rapid City, was reappointed on October 3, 2014, to the **South Dakota Professional Teachers Practices and Standards Commission**, effective January 1, 2015, and shall continue until December 31, 2017.

Patricia R. Johnson-Riibe, Yankton, was reappointed on October 3, 2014, to the **Behavioral Health Advisory Council**, effective October 31, 2014, and shall continue until October 30, 2017.

Ronald D. Rosenboom, Sturgis, was appointed on October 6, 2014, to the **Transportation Commission**, to replace Mike Trucano, effective November 1, 2014, and shall continue until April 16, 2018.

Jeffrey J. Smith, Mitchell, was appointed on October 9, 2014, to the **South Dakota Board of Accountancy**, effective October 31, 2014, and shall continue until October 30, 2017.

Amy B. Carter, Sioux Falls, was reappointed on October 9, 2014, to the **Council for the Interstate Commission for Juveniles**, effective December 1, 2014, and shall continue until November 30, 2017.

Holly Brunick, Sioux Falls, was reappointed on October 9, 2014, to the **South Dakota Board of Accountancy**, effective October 31, 2014, and shall continue until October 30, 2017.

Jamie Gravett, Sioux Falls, was appointed October 9, 2014, to the **Council for the Interstate Commission for Juveniles**, effective December 1, 2014, and shall continue until November 30, 2017.

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

| | | |
|------------|---|---|
| 10-15-2014 | Labor and Regulation: Division of Insurance | Amend rules to update the Risk Based Capital reporting requirements for insurers and health organizations; update Annuity Mortality tables; update the mental health parity rules in order to be consistent with the final rules under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008; and update standards for qualified health plans, minimum essential health benefits, and the sale of individual health insurance outside of an exchange; 41 SDR 57, September 29, 2014. |
| 10-17-2014 | Health: State Board of Dentistry | Amend rules to allow a dental hygienist, advanced dental assistant or dental assistant that holds a permit to monitor patients under general anesthesia and deep sedation or moderate sedation to inject medication through an intravenous site while under personal supervision of a dentist that holds a permit to administer general anesthesia and deep sedation or moderate sedation and to update sedation and anesthesia rules to require that any dentist that administers moderate sedation or provides dental services to patients under moderate sedation ensure that the office in which the work is performed has pulse oximetry and electrocardiogram display and require that any dentist that administers general anesthesia and deep sedation or provides dental services to patients under general anesthesia and deep sedation ensure that the office in which the work is performed has pulse oximetry, electrocardiogram display, precordial stethoscope and measurement of EtCO2 (capnography); 41 SDR 45, September 8, 2014. |
| 10-22-2014 | Health: Board of Examiners in Optometry | Amend rules to increase the annual renewal fee; add to the listing of procedures approved |

| | | |
|------------|--|--|
| | | as within the scope of practice of optometry; and adopt rules for a complaint investigation process; 41 SDR 57, September 29, 2014. |
| 10-22-2014 | Social Services: Division of Economic Assistance | Amend rules to repeal duplicative and obsolete rules, update outdated information, align rules with current practice, clarify language of certain rules, more specifically identify coverage groups, ensure compliance with federal regulations, and comply with changes due to the implementation of the Affordable Care Act; 41 SDR 57, September 29, 2014. |
| 10-23-2014 | Transportation | Amend a Speed Zone rule to extend an existing 35 mph speed zone on U.S. Highway 83 in Todd County beginning 0.3 mile south of the intersection of U.S. Highway 18 an additional 0.25 mile south; 41 SDR 63, October 6, 2014. |
| 11-6-2014 | Game, Fish and Parks | Amend rules that would modify the "diver-down flag requirements" by changing flag size requirements and restricting diver-down flags from being placed in areas that would restrict watercraft navigation; adjust the nonrefundable application fee for elk, mountain goat, and bighorn sheep from \$5 to \$10; prohibit baiting from March 15 through May 31, inclusive, and create an exception for research activities conducted by the Department; offer residents 85 less one-tag "male turkey" licenses and 340 less two-tag "male turkey" licenses for the Prairie Units; offer nonresidents 10 more one-tag "male turkey" licenses and 28 less two-tag "male turkey" licenses for the Prairie Units; correct unit boundary descriptions for BST-BH1 (Black Hills) and PST-53A (Perkins County); remove the archery restriction west of Interstate 29 in Brookings County; remove the split seasons in Clay and Union counties; add Lincoln County to the restricted area where a person may use only a shotgun using shot shells, muzzleloading shotgun, or bow and arrow; reduce the number of archery turkey access permits valid for Good Earth State Park from 10 to 5, and repeal Unit PST-ZZ1; modify the definition of "Inland waters"; add a definition for "snag hook" and modify the definition of "snagging" accordingly; allow the use of artificial lights for fishing, and allow for the liberalized take of silver carp and |

| | | |
|------------|-------------------------------|--|
| | | bighead carp that jump into a boat or that can be netted using a dip net; change the channel catfish daily and possession limits on Nebraska border waters; correct the county references for Hanson Lake and Curlew Lake; clarify the manner in which paddlefish taken below Gavin's Point Dam are to be measured for purposes of the established length restriction; modify the rules pertaining to areas open to the spearing of game fish; prohibit the harvest of mussels for noncommercial purposes; require listing all wild animal (including amphibians, reptiles, and invertebrates, and parts thereof) specimen collection requests on applications for scientific collector's permits; add all wild animals (including amphibians, reptiles, and invertebrates, and parts thereof) to the list of specimens for which limits on the number of specimens and special conditions and provisions can be established; 41 SDR 67, October 14, 2014. |
| 11-17-2014 | Education: Board of Education | Amend rules to create consistent language between teacher and principal evaluation rules in regard to the summative effectiveness rating; and establish a process by which principals must be evaluated by the 2016-2017 school year; 41 SDR 63, October 6, 2014. |

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held on Wednesday, November 12, 2014, in Room 414, Fourth Floor of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2014 interim: 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>.

